

Bank Act of California

INCLUDING 1919 AMENDMENTS

COMPILED BY
BLYTH, WITTER & CO.
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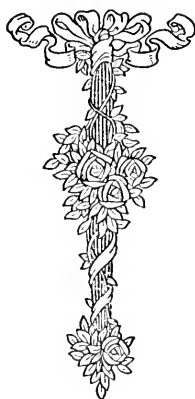
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California Bank Act of 1905

BANK ACT OF CALIFORNIA

INCLUDING 1919 AMENDMENTS



COMPILED BY

BLYTH, WITTER & COMPANY

GOVERNMENT, MUNICIPAL AND CORPORATION BONDS

MERCHANTS EXCHANGE

San Francisco

NEW YORK

LOS ANGELES

SEATTLE

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BLYTH, WITTER & CO.
GOVERNMENT, MUNICIPAL & CORPORATION
BONDS
MERCHANTS EXCHANGE, SAN FRANCISCO
NEW YORK - LOS ANGELES - SEATTLE



FOREWORD

In compiling the Bank Act of California, including amendments of 1919, we have tried to prepare a volume easy of reference and convenient in form.

Legislative provisions referred to in the Act will be found in the Appendix.

Notes based substantially on an analysis by the Superintendent of Banks of the 1919 Amendments are generally included under those sections amended wholly or in part.

For valued assistance in compiling this volume we are indebted to various officials of the State Banking Department and of the California Bankers Association.

BLYTH WITTER & CO.

August, 1919.

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BANK ACT OF CALIFORNIA

AN ACT TO DEFINE AND REGULATE THE BUSINESS OF BANKING

*The People of the State of California, Represented in Senate and Assembly
Do Enact as Follows:*



ARTICLE I.

GENERAL PROVISIONS.

Section 1. This act shall be known as the "bank act," and shall be applicable to all corporations specified in the next section and to such other persons, associations, co-partnerships or corporations who shall, by violating any of its provisions, become subject to the penalties provided therein.

Act named "bank act."

Section 2. The word "bank" as used in this act shall be construed to mean any incorporated banking institution which shall have been incorporated to conduct the business of receiving money on deposit, or transacting a trust business as herein defined. The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business shall be deemed to be doing a commercial or savings bank business whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass book, a note, a receipt or other writing; provided, that nothing herein shall apply to or include money or its equivalent left in escrow or left with an agent, pending investment in real estate or securities for or on account of his principal. It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state except

"Bank" defined.

What deemed commercial or savings bank business.

Transacting banking business otherwise than by means of banking corporation—unlawful.

by means of a corporation duly organized for such purpose. Banks are divided into the following classes:

- (a) Savings banks;
- (b) Commercial banks; and
- (c) Trust companies.

Method of organizing
banking corporations.

Section 3. Corporations may be organized by any number of natural persons, not less in any case than three, under the laws of this state to conduct, as provided in this act, and not otherwise, any one or more or all of the businesses mentioned in divisions (a), (b), and (c) of section two, of this act.

"Savings bank"
defined.

Section 4. The term "savings bank," when used in this act, means a bank organized for the purpose of accumulating and loaning the funds of its members, stockholders, and depositors, and which may loan and invest the funds thereof, receive deposits of money; loan, invest and collect the same with interest; and may repay depositors with or without interest, **and having power to invest said funds in such property, securities and obligations as may be prescribed by this act;** and to declare and pay dividends on its general deposits, and a stipulated rate of interest on deposits made for a stated period or upon special terms.

"Commercial bank"
defined.

Section 5. The term "commercial bank," when used in this act, means any bank authorized by law to receive deposits of money, **deal in commercial paper or to make loans thereon,** and to lend money on real or personal property, **and to discount bills, notes or other commercial paper, and to buy and sell (and advertise for purchase or sale such) securities (as are permissible for investment by commercial banks,)** gold and silver bullion, or foreign coins or bills of exchange; (provided, any commercial bank located and doing business in any place the population of which does not exceed five thousand persons, as shown by the last preceding federal census, or any subsequent census compiled and certified under any law of this

Commercial bank
acting as agent for
insurance company.

state, may, under such rules and regulations as may be prescribed by the superintendent of banks, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State of California to do business in this state, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said bank and the insurance company for which it may act as agent; provided, however, that no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal; and provided, further, that said bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance).

Bank not to assume or guarantee payment of premium, etc.

[Note by Publishers, re Section 5, amended 1919: The phrases and provisos enclosed in brackets interpolated by the publishers represent new matter added by amendment in 1919.

This amendment of Section 5 is designed to enlarge the definition of commercial banking to include a capacity by commercial banks in cities of a population not greater than 5,000 persons to act as the agent for any fire, life, or other insurance company authorized by the authorities of the State of California to do business in this State. Such agency shall be regulated by rules to be prescribed by the Superintendent of Banks. The section is amended in this fashion to permit commercial banks in the State system to compete upon an equality with National Banks in the same locality. The amendment is of identical phrasing with an amendment to Section 13 of the Federal Reserve Act, approved September 7, 1916. Contingent liabilities involved in such agency are removed absolutely. For regulations governing banks desiring to establish such agency, see State Banking Department's Bulletin No. 1 in Appendix.]

Section 6. The term "trust company," when used in this act, means any corporation which is incorporated under the laws of this state for the purpose of conducting the business of acting as executor, administrator, guardian of estates, assignee, receiver, depository or trustee under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law.

"Trust company" defined.

Section 7. No foreign corporation shall transact a banking business in this state without first complying with all the requirements of the laws of this state relative to banks as defined in this act, and without having assigned to its business in this state the amount of paid-up capital and surplus required by this act for the transaction of

Foreign Corporations. Prerequisites to transacting business in this State.

such business within this state. No foreign banking corporation shall transact business in this state until such corporation has made the assignment of capital required by this section and has received a certificate from the superintendent of banks; provided, that a foreign banking corporation shall not be permitted to accept deposits of money in this state but may receive a certificate from the superintendent of banks to transact in this state only the business of buying or selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans; and provided, further, that those foreign banking corporations that now have power to do a banking business in this state and which now receive deposits of money shall be permitted to continue to accept money on deposit. Any foreign banking corporation transacting business in this state shall become subject to the supervision of the state superintendent of banks. Every foreign banking corporation, including those which were on January second, nineteen hundred thirteen, transacting business in this state, which receives any deposits or transacts any other banking business or transacts its business in such a manner as might lead the public to believe that its business is that of a bank shall conduct all its business in accordance with the statutes governing incorporated banking institutions organized under the laws of this state. The capital of any such foreign banking corporation assigned to its business in this state and all funds and deposits of money received by any such corporation in this state or for or in connection with its business in this state and all accounts and transactions of said business transacted by any such foreign corporation in this state shall be kept separate and apart from the general business, assets and accounts of such foreign corporation in the same manner as if the business of such foreign corporation conducted within this state was that of a separate and independent corpora-

Hereafter not to receive deposits.
(Exception)

But may transact in State specified business.

Subject to State laws.

Capital assigned to business in this State, etc., to be kept separate.

tion organized under the laws of this state for the purpose of doing a banking business and all of the provisions of this act affecting investments, loans of money, receiving deposits and conducting business in any respect shall be deemed to apply to such assigned capital, investments, loans, deposits, assets, funds and business in the same manner as if such assigned capital, investments, loans, deposits, assets, funds and business were that of such separate and independent corporation; provided, that loans may be made by any such foreign corporation based on its entire paid-up capital and surplus in case such foreign corporation shall have assigned to its business in this state a paid-up capital and surplus as above provided equal to twenty per centum of the deposit liability of such branch agency or office to residents of this state. Such funds and investments or loans thereof shall be appropriated solely to the security and payment of such deposits, and shall not be mingled with the investments of the capital stock or other money or property belonging to such corporation or be liable for the debts or obligations thereof. All income received from the investment of such funds over and above such funds as may be paid to depositors as interest or shall be carried to the surplus fund, as provided in section twenty-one of this act, shall accrue as profits to the corporation and may be transferred to its general funds. No such foreign corporation shall transact any banking business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent or his successor in office, its true and lawful attorney, upon whom all process issued by authority of or under any law of this state may be served, with the same effect as if such corporation was formed under the laws of this state and had been lawfully served with process therein. Such service upon such attorney shall be deemed personal service on such corporation. The superintendent of banks shall forthwith forward by mail, postage prepaid, a copy

Provisions of Act affecting investments, deposits, etc., apply to assigned capital.

Loans made by foreign corporations—their basis.

Income from investment of funds—how applied.

Further prerequisites to doing business—Filing appointment of Supt. as attorney, etc.

Foreign corporation not to have any trust company powers, or powers specified in Sec. 6, except in this State may exercise powers permitted to foreign corporations by Sec. 90, and act as executor or trustee under will.

Foreign corporation so acting to file copy of articles, etc., and appointment of Supt. as attorney, etc.

of every process served upon him under the provisions of this section, addressed to the manager or agent of such corporation, at its principal place of business in this state. For each copy of process, the superintendent of banks shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of the service, to be recovered by him as a part of his taxable costs if he succeed in the suit or proceeding. No foreign corporation shall have or exercise in this state the power to receive deposits of trust moneys, securities or other personal property from any person or corporation or any of the powers specified in section six of this act, nor have or maintain an office in this state for the transaction of, or transact, directly or indirectly, any such or similar business, except that a trust company incorporated in another state may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of section ninety of this act and may be appointed and may accept appointment and may act in this state as executor of or trustee under the last will and testament of any deceased person, upon giving the bond required in such cases of individuals unless waived by the last will and testament making such appointment and by taking and subscribing an oath for faithful performance of such trust by the president, vice president, secretary, manager or trust officer of said corporation; provided, that such superintendent of banks, for the time being, shall be attorney of such foreign corporation qualifying or acting in this state as such executor or trustee, upon whom process against such foreign corporation may be served in any action or legal proceeding against such executor or trustee affecting or relating to the estate or property represented or held by such executor or trustee, or any act or default of such foreign corporation in reference to such estate or property, and it shall be the duty of such foreign corporation so qualifying or acting to file in the office of said superintendent of

banks a copy of its articles of incorporation, or of the statute chartering such corporation, certified by its secretary under its corporate seal, together with the post-office address of its home office, and a duly executed appointment of said superintendent of banks as its attorney to accept service of process as above provided, and said superintendent of banks, when any such process is served upon him, shall at once mail the papers so served to the home office of such corporation; and provided, further, that no foreign corporation which may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of section ninety of this act or having authority to act as executor of or trustee under the last will and testament of any deceased person shall establish or maintain, directly or indirectly, any branch office or agency in this state, or shall in any way solicit, directly or indirectly, any business as executor or trustee therein, and that for any violation of this proviso, the court having jurisdiction of such executor or trustee in said proceeding may in its discretion, revoke the right of such foreign corporation thereafter to act as executor or trustee therein; provided, that nothing in this act shall limit or affect the right of any foreign corporation doing a banking business in this state, to lend within this state, moneys of such corporation which do not form a part of the moneys, deposits or assets of such corporation assigned or belonging to its business in this state.

No foreign corporation having in State powers permitted by Sec. 90, etc., to maintain branch office or solicit business as executor or trustee.

Penalty for violation.

This section shall not be construed to prohibit foreign banking corporations, which do not maintain an office in this state for the transaction of business, from making loans in this state secured by mortgages on real property, nor from accepting assignments of mortgages covering real property situated in this state, nor from making loans through correspondents which are engaged in the business of banking in this state under the laws of this state.

Foreign banking corporations not maintaining office here not prohibited from making mortgage loans, etc.

[Note by Publishers, re Section 7, amended 1917:

This section, as amended, deals with the conditions under which foreign banks may engage in business in this State. Under the law as it stood prior to

1917, foreign banks, if permitted to come into the State at all, came with every privilege extended to domestic corporations. Experience in other States and in this State led to the conclusion that the proper and most effective means of extending the activities and the service to be rendered by foreign banks that might hereafter come into California, is to make it easier for them to come in. It seems paradoxical to say that it is easier for foreign banks to come in when we deprive them of one of the privileges that they would have if they had come in under conditions existing prior to the above amendment. The fact remains, however, that no foreign bank which desires to come here to promote foreign trade and to widen its own activities, comes because of the inducement that it may be permitted to receive deposits in this State. We have in this State six foreign banks; three of these are receiving deposits and three are not receiving deposits. Those that are not receiving deposits have imposed upon themselves the condition that they shall not receive deposits in this State. The amendment therefore does not deprive any bank which had been receiving deposits in this State prior to the amendment from continuing to do so, but banks before or after the amendment not receiving deposits in this State are not permitted to receive deposits. The constitution of this State provides that no foreign corporation shall come into this State and enjoy the privilege of doing business in this State on more favorable terms than may be extended to a domestic corporation. While the power to receive deposits is not in one aspect more favorable terms for a foreign corporation, it is in reality such because of the fact that the same element of security and of protection and of supervision that the people of this State have when they deposit their moneys in domestic institutions can not be extended to those deposits when they are placed in foreign institutions. Fortunately, the foreign institutions that are now receiving deposits in this State are of the highest class, but there could be no such well established confidence with reference to all foreign banks which might desire to come into this State; when a foreign bank, therefore, desires to enter California and insists upon the privilege of receiving deposits, it is necessary to refuse such bank a license. Under authority of the amendment it will be easier for foreign banks to enter because the doors of the State can be thrown open and we can welcome any foreign bank to come here and offer its service in assisting in the extension of foreign trade, the only purpose for which a foreign bank should be permitted to do business in this State.

FOREIGN TRUST COMPANIES.

And along the same line of our desire to extend to foreign banks facility of coming in here, we have taken out another important limitation that was in Section 7, in reference to foreign trust companies. Foreign trust companies were not permitted to come in here and undertake the execution of any trust unless the laws of their State, in which their principal place of business is located, also permitted trust companies of California to perform a like service in their State.

By the above amendment, that limitation was taken out and foreign trust companies are permitted to come in for any purpose, excepting for certain limitations which, if removed, would interfere with the protections that are thrown around our own trust companies.]

Requirements imposed upon every corporation applying for certificate of authority to do a banking business.

Section 8. Every corporation, at the time it applies for a certificate of authority to do a banking business, must file with the superintendent of banks a certified copy of its articles of incorporation, or of the statute chartering such corporation, a certified copy of its by-laws, and also a certified copy of all instruments amending or altering such articles of incorporation or charter or by-laws. Thereafter a certified copy of each amendment or certificate designed to increase or decrease the capital stock, to change the number of directors, to amend the articles of incorporation, to change the principal place of business, or the name of such corporation, or to effect any other organic change shall likewise be so filed before such in-

strument takes effect. Each certification required by the provisions of this section other than that of by-laws must be by the secretary of state.

[Note by Publishers, re Section 8, amended 1919:

This section remedies a conflict which existed between this section and Section 290a of the Civil Code. The last-named section was amended in 1917 so as to eliminate the requirement of the affidavit of the organizers of a banking corporation with reference to the paid-in capital thereof, but Section 8 continued to demand this requirement; and the elimination of this feature of Section 8 is the only purpose of the amendment.

See Appendix for extract from Section 290a, Civil Code.]

Section 9. No bank in this state, or any officer or director thereof, shall hereafter open or keep an office other than its principal place of business, without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office; provided, that no bank or any officer or director thereof, shall open or maintain any such branch office unless the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act by the sum of twenty-five thousand dollars for each branch office opened and maintained in the place where its principal business is transacted; and provided, that for each branch office opened or maintained by any bank, other than a bank transacting only the business described in section six of this act, in any place in this state other than the place where the principal business of such bank is transacted, the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act in the sum required by this act for every bank hereafter organized in the place where each branch office is to be opened or maintained, exclusive of the capital required for a trust department; and, provided also, that for each branch office opened or maintained by any corporation which has power to transact only such business as is described in section six of this act or in section four hundred

Branch Banks.

Prerequisites for opening.

Capital required—
Generally.

For each branch other than trust company branch outside principal place of business.

For branch opened by trust company or mortgage-insurance company, etc.

fifty-three x of the Civil Code, in any place in this state other than the place where the principal business of such corporation is transacted, the capital of such corporation, actually paid in, in cash, shall exceed the amount required by this act in the sum of twenty-five thousand dollars; and provided, further, that no branch office may be discontinued without the previous written approval of the superintendent of banks.

Certificate required
for opening branch.

Bank may arrange
for collection of sav-
ings in schools.

Penalty for violation
of section.

Every bank, before it opens a branch office, shall obtain the certificate of authority of the superintendent of banks for the opening of each of said branch offices. The applicant shall pay for such certificate a fee of fifty dollars; provided, however, that, in order to encourage saving among the children of the schools of this state, a bank may, with the written consent of and under regulations approved by the superintendent of banks and, in case of public schools, by the board of education or board of school trustees of the city or district in which the school is situated, arrange for the collection of savings from the school children by the principal or teachers of such schools or by collectors. The principal, teacher or person authorized by the bank to make collections from the school children shall be deemed to be the agent of the bank and the bank shall be liable to the pupil for all deposits made with such principal, teacher or other person, the same as if the deposits were made by the pupil directly with the bank. Every bank and every such officer or director violating the provisions of this section shall forfeit to the people of the state the sum of one hundred dollars for every day during which any branch office hereafter opened shall be maintained without such written approval.

[Note by Publishers, re Section 9, amended 1917:

BRANCH BANKS: Under the law as it stood previous to this amendment of 1917, a branch office could be opened with a capital of but \$25,000 in excess of the amount otherwise required for the conduct of the business of the bank in the locality where the principal business of the bank was located. The amendment of 1917 requires that where a bank opens a branch office in any place in this State other than the place where the principal business of such bank is transacted, the capital of such bank, actually paid in, in cash, shall exceed the amount required by the act in the sum required by the act for every bank organized after

said amendment in the place where each branch office is to be opened. For instance, a bank not having a trust department and having its principal place of business in San Francisco, is required to have \$300,000 capital. Such an institution under authority of the law without this amendment might have opened a branch office in Los Angeles with an additional \$25,000, while a new bank in Los Angeles would have to have \$300,000 capital, the same as in San Francisco. This amendment requires that the San Francisco bank must have a capital of not less than \$600,000, to open a branch office in Los Angeles.

An additional change made by this amendment, is that no branch, once it is opened, shall be closed without the approval of the Superintendent of Banks. The purpose of that is, of course, to prevent a bank from opening a branch in some place to control business and then subsequently closing the branch and transferring the business of its depositors to some other place, leaving the community without any banking facilities.]

Section 10. No person shall be eligible for election as director of a bank having a capital stock unless he is a stockholder of the bank, owning, in his own right, shares thereof of the par value of at least five hundred dollars; and every person elected to be director who, after such election, shall cease to be the owner in his own right of the amount of such stock aforesaid, or shall hypothecate or in any way pledge such stock as security for any loan or debt shall immediately notify the superintendent of banks in writing of such sale or hypothecation and such director may be removed from the office of director by the superintendent of banks; provided, however, that any executor or executrix, administrator or administratrix holding shares of a bank of the par value of five hundred dollars, in his or her representative capacity shall be eligible for election as a director thereof. If a bank be organized without capital stock, no person shall be eligible as a director thereof unless he is both a member and a depositor of such bank.

Directors.

Director after election ceasing to own, or pledging, qualifying stock, to notify Supt., etc.

Executor or administrator when eligible as director.

Section 11. The board of directors of a bank organized under the laws of this state must hold a meeting in its banking premises at least once a month. Each such director, when appointed or elected, shall take an oath that he will, as far as the duty devolves on him, diligently and honestly administer the affairs of such bank, and will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to such bank, and that he is the owner in good faith and in his own right of shares of stock of the par value required by section ten of this act,

Directors' Meetings to be held at least once a month.

Oath of directors.

Oath required of
Resident Managers
or Agents.

subscribed by him or standing in his name on the books of the bank, and that the same to an amount equal to the par value of at least five hundred dollars, are not hypothecated or in any way pledged as security for any loan or debt. Such oath shall be subscribed by the director making it, certified by the officer before whom it is taken, and immediately transmitted to the superintendent of banks and filed and preserved in his office; provided, the managers or agents residing in this state, of a foreign corporation transacting any banking business in this state, shall take an oath that they will, as far as the duty devolves on them, diligently and honestly administer the affairs of such bank, and will not knowingly violate or wilfully permit to be violated any of the provisions of law applicable to such bank. Such oath shall be subscribed by the managers or agents taking it, certified by the officer before whom it is taken, and immediately transmitted to the superintendent of banks and filed and preserved in his office.

Person, firm, corporation, etc., not subject to supervision of Supt., and unauthorized under Act—shall not advertise acceptance of money or savings, or do acts inducing belief that place or office is that of bank or trust company.

Shall not use stationery, name or words indicating place or office is that of bank or trust company, etc.

Section 12. No person, firm, company, copartnership or corporation, either domestic or foreign, not subject to the supervision of the superintendent of banks, and not required, by the provisions of this act, to report to him, and which has not received a certificate to do a banking business from the superintendent of banks, shall advertise that he or it is receiving or accepting money or savings, and issuing notes or certificates of deposit therefor, or shall make use of any office sign, at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank or trust company, that deposits are received there or payments made on check, or any other form of banking business transacted, nor shall any such person or persons, firm, company, copartnership or corporation, domestic or foreign, make use of or circulate any letterheads, billheads, blank notes, blank receipts, certificates or circulars, or any

written or printed, or partly written and partly printed, paper, whatever, having thereon any artificial or corporate name or other word or words indicating that such business is the business of a bank, savings bank or trust company; nor shall any such person, firm, company, copartnership or corporation, or any agent of a foreign corporation not having an established place of business in this state, solicit or receive deposits or transact business in the way or manner of a bank, savings bank or trust company, or in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank or trust company. Nor shall any person, firm, company, copartnership or corporation, domestic or foreign, not subject to the supervision of the superintendent of banks, and not required by the provisions of this act to report to him, and which has not received from the superintendent of banks a certificate to do a banking business, hereafter transact business under any name or title which contains the word "bank," or "banker," or "banking," or "savings bank," or "savings" or "trust" or "trustee" or "trust company"; provided, that this section shall not apply to the corporate name of any building and loan association now or heretofore doing business in this state; and provided, further, that any such association having in its corporate name words not clearly indicating the nature of its business shall, on all signs, letterheads and advertising matter, state "This is a building and loan association" or words to that effect; and provided, further, that any building and loan association may borrow money, issue investment certificates or evidences of indebtedness, stating the rate of interest and terms and conditions of repayment, and do such other business as may be authorized by the laws of the state relating to building and loan associations; and provided, further, that no such association shall advertise or hold itself out to the public as a savings bank. Any person, firm, company, copartnership or corporation, domestic or foreign, violating any

Section shall not apply to name of existing Bldg. & Loan Assn.

Nature of business of Bldg. & Loan Assn. must be shown, by its title or advertising.

No Bldg. & Loan Assn. shall hold itself out as savings bank.

provision of this section shall forfeit to the state one hundred dollars a day for every day or part thereof during which such violation continues. Upon action brought by the superintendent of banks the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further using such words in violation of the provisions of this section or from further transacting business in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank or trust company during the pendency of such action and for all time and may make such other order or decree as equity and justice may require.

Every person, firm, corporation, etc., domestic or foreign—

Advertising transaction of banking, savings bank or trust company business, in any form, etc.

Must have proper capital paid in and set aside and have received certificate from Supt.

Penalty.

Section 12a. Every person, firm, company, copartnership or corporation, domestic or foreign, advertising that he or it is receiving or accepting money or savings, and issuing notes or certificates of deposit therefor, or advertising that he or it is transacting the business of a bank, savings bank or trust company, or making use of any office sign at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank, or trust company, or that deposits are received there or payments made on check, or that interest is paid on deposits, or that certificates of deposit, either with or without interest are being issued, or that any other form of banking business is transacted, and every person, firm, company, copartnership or corporation, domestic or foreign, making use of or circulating any letterheads, billheads, blank notes, blank receipts, certificates or circulars, or any written or printed, or partly written and partly printed, paper, whatever, having thereon any artificial or corporate name, or advertising that such business is the business of a bank, savings bank or trust company, must have the proper capital stock paid in and set aside for the purpose of transacting such business, and must have received from the superin-

tendent of banks, as provided for in this act, a certificate to do a banking business. Any person, firm, company, copartnership or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state one hundred dollars a day for every day or part thereof during which such violation continues. Upon action brought by the superintendent of banks the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further violating any provision of this section, and may make such further order or decree as equity and justice may require. Every person, firm, company, copartnership or corporation doing any of the things or transacting any of the business defined in this section, must transact such business according to the provisions of the bank act, and the superintendent of banks or his deputy or examiners shall have authority to examine the accounts, books and papers of every such person, firm, company, copartnership or corporation, domestic or foreign, in order to ascertain whether such person, firm, company, copartnership or corporation has violated or is violating any provisions of this section; provided, that this section shall not apply to the corporate name of any building and loan association now or heretofore doing business in this state; and provided, further, that any such association having in its corporate name words not clearly indicating the nature of its business shall, on all signs, letterheads and advertising matter, state: "This is a building and loan association" or words to that effect; and provided, further, that any building and loan association may borrow money, issue investment certificates or evidences of indebtedness, stating the rate of interest and terms and conditions of repayment, and do such other business as may be authorized by the laws of the state relating to building and loan associations; and provided, further, that no such association shall advertise or hold itself out to the public as a savings bank.

Every person, firm, corporation, etc., transacting any business defined in Sec. must do so under Bank Act.

Section not applicable to corporate name of existing Bldg. & Loan Assn.

Any Bldg. & Loan Assn. may borrow money, etc.

No Bldg. & Loan Assn. shall hold itself out as savings bank.

Right of foreign corporation chartered as life insurance and trust company to use corporate title.

Section 12b. Nothing in this act shall be construed or held to apply to any corporation organized under the laws of any other state which is authorized by its charter or articles of incorporation to transact the business of life insurance and also to be known as and to transact business as a trust company and which shall have complied with the laws of the state affecting the transaction in this state of the business of life insurance by a foreign corporation and which shall have heretofore engaged in such business of life insurance in this state, in such manner as to forbid or prevent its making use of its corporate title in its life insurance business in this state in any such way and to any such extent as it might have made use of the same if this act had not been passed.

Foreign corporation complying with laws of California not engaged in banking may maintain State offices to lend money, buy or sell bonds, etc.

Section 12c. Any corporation organized under the laws of any country or state other than this state which has complied with all of the laws of this state pertaining to foreign corporations and is not engaged in the business of banking or receiving money on deposit in this state may lend money or buy and sell bonds in this state, and for that purpose, may maintain offices in this state, and sue and be sued in this state under its proper corporate name, notwithstanding any prohibitions contained in this act as to the use of any words in the name, signs or advertising matter of corporations not under the supervision of the superintendent of banks; provided, that nothing in this act shall be construed to prohibit any representative of any foreign banking corporation from maintaining an office in this state as the office of a representative and not the place of business of a bank or trust company, nor to prohibit such representative from making use of any office sign at the place where such representative's office is maintained having thereon words indicating that such office is the place of business of a representative of a foreign bank or trust company; and provided, further, that any representative of a foreign bank maintaining an office within this state may make use of such foreign bank's

Representative of foreign banking or trust company not prohibited from maintaining as such State office.

Such representative may use foreign bank's printed matter in transacting business as representative.

letterheads, circulars and other printed matter in the transaction of business as such representative; and provided, further, every representative of any foreign bank or trust company before opening an office as a representative shall have received a license from the superintendent of banks to open such representative's office. Such license may be issued upon application to the superintendent of banks and the payment of an annual license fee of fifty dollars and may be refused or revoked by the superintendent of banks at his discretion.

Such representative must first obtain license from supt. to open office.

[Note by Publishers, re Section 12c, amended 1917:

This amendment allows a representative of a foreign bank to open an office in this State for the purpose of distributing information and assisting in a general way in the conduct of the banking business. Under the law as it stood, it was impossible for a foreign bank to open an office in this State at all, unless it qualified by assigning the required capital and receiving a certificate from this State. It was concluded that this was an unnecessary restriction and that representatives of foreign banks might properly open offices to assist in the distribution of knowledge and gathering of information that is very helpful not only to themselves but to the banks of this State, and this amendment extended that privilege.]

Section 13. No corporation, domestic or foreign, other than a corporation formed under or subject to the banking laws of this state or of the United States, except as permitted by such laws, or other than an express company as hereinafter defined in this section, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying and selling bills of exchange, or of issuing bills, notes or other evidences of debt for circulation as money, or of engaging in any other form of banking; nor shall any such corporation, except an express company having contracts with railroad companies for the operation of an express service upon the lines of such railroad companies, or a transatlantic steamship company, or a transpacific steamship company, or a telegraph company, or a telephone company, possess the power of receiving money for transmission or of transmitting the same, by draft, traveler's check, money order or otherwise.

Power of express company to handle exchange, etc.

[Note by Publishers, re Section 13, amended in 1917.

The purpose of this amendment was to simplify the expression of the section and better to control the activities of express companies and telephone and tele-

graph companies in the matter of handling exchange. The Bank Act formerly contained a strict prohibition against the exercise of this banking function except by banks. In 1915 the law was amended that transportation and express companies might receive a certificate under certain circumstances, but that also was found not quite to meet the case. The State Banking Department believe that this amendment makes it better and easier for such corporations to perform their service and at the same time not encroach upon the proper field of banking.]

Advertisement of
capital.

Section 14. No bank, or officer thereof, shall advertise in any manner, or publish any statement of the capital authorized or subscribed, unless it or he advertise and publish in connection therewith, the amount of capital actually paid up. No bank shall publish a statement of its resources or liabilities in connection with those of any other bank, unless such statement shall show the resources and liabilities of each bank separately; nor shall surplus and undivided profits be advertised as an aggregate.

Joint advertising
condition of two
banks.

All deposits, un-
claimed or not with-
drawn for 20 years,
to be deposited with
State Treasurer,
after judgment, as
provided by law.

Section 15. All amounts of money heretofore or hereafter deposited with any bank to the credit of depositors who have not made a deposit on said account or withdrawn any part thereof or the interest and which shall have remained unclaimed for more than twenty years after the date of such deposit, or withdrawal of any part or principal or interest, and where neither the depositor or any claimant has filed any notice with such bank showing his or her present residence, shall, with the increase and proceeds thereof, be deposited with the state treasurer after judgment in the manner provided in the Code of Civil Procedure. At the time of issuing the summons in the action provided for in section 1273 of the Code of Civil Procedure, the clerk shall also issue a notice signed by him, giving the title and number of said action, and referring to the complaint therein, and directed to all persons, other than those named as defendants therein, claiming any interest in any deposit mentioned in said complaint, and requiring them to appear within sixty days after the first publication of such summons, and show cause, if any they have, why the moneys involved in said action should not be deposited with the state treasurer as in said section provided, and notifying them that if they do not so appear and show cause, the state

Court procedure to
be followed in ob-
taining such judg-
ment against bank
and all claimants.

will apply to the court for the relief demanded in the complaint. A copy of said notice shall be attached to and published with the copy of said summons required to be published by said section, and at the end of the copy of such notice so published there shall be a statement of the date of the first publication of said summons and notice. Any person interested may appear in said action and become a party thereto. Upon the completion of the publication of the summons and notice, and the service of the summons on the defendant bank, or banks, as in said section 1273 of the Code of Civil Procedure provided, the court shall have full and complete jurisdiction over the state, and the said deposits and of the person of every one having or claiming any interest in the said deposits, or any of them, and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate judgment thereon. The president or managing officer of every bank must, within fifteen days after the first day of January of every year, return to the superintendent of banks and to the state controller a sworn statement showing the names of depositors known to be dead, or who have not made further deposits, or withdrawn any moneys during the preceding twenty years. Such statement shall show in detail the following matters, viz.:

Any person interested may become party to action.

President or managing officer of bank must annually return sworn statement showing matters set forth in section.

First—The name and last known place of residence or postoffice address of the person making such deposit;

Second—The amount and date of such deposit and whether the same are in moneys or securities, and if the latter, the nature of the same;

Third—The interest due on such deposit, if any, and the amount thereof;

Fourth—The sum total of such deposit, together with the interest added thereto due from such bank on account of such deposit or deposits and the interest thereon to

Aforesaid reports shall be sworn to.

such depositor, but nothing contained herein shall require any corporation or person renting lock boxes or safes in vaults for storage purposes to open or report concerning property stored therein. Such reports itemized as aforesaid shall be signed by the person making the same and shall be sworn to before a person competent to administer oaths as a full, complete and truthful statement of each of the items therein contained.

Bank must return biennial statement of depositors deceased or not making or withdrawing deposits during preceding 10 years.

The president or managing officer of every bank must, within fifteen days after the first day of January of every odd numbered year, return to the superintendent of banks a sworn statement showing the names of depositors known to be dead, or who have not made further deposits, or withdrawn any moneys during the preceding ten years. Such statements shall show the amount of the account, the depositor's last known place of residence or post-office address, and the fact of death, if known to such president or managing officer. Such president or

What such statements shall show.

Notice of deposits to be published.

managing officer must give notice of these deposits in one or more newspapers published in or nearest to the town or city where such bank has its principal place of business, at least once a week for four consecutive weeks, the cost of such publication to be paid pro rata out of such unclaimed deposits. This section does not apply to any deposit made by or in the name of a person known to the president or managing officer to be living. The superintendent of banks must incorporate in his subsequent report such returns made to him as provided in this section.

Section not applicable to deposit by or in name of person known to officer to be living.

Penalties.

If any president or managing officer of any bank neglects or refuses to make the sworn statements required by this section such bank shall forfeit to the State of California the sum of one hundred dollars a day for each day such default shall continue. Any president or managing officer of any bank who violates any of the provisions of this section shall forfeit to the State of California the sum of one hundred dollars a day for each and every day such violation shall continue. For the purposes of

Date of receipt of deposits transferred from another bank.

this section all deposits received by any bank under the provisions of section thirty-one or section thirty-one-a of this act shall be deemed to have been deposited with such bank at the time the deposit was made with the bank from which the deposit was transferred; provided, that any bank which shall make any deposit with the state treasurer in conformity with the provisions of this section shall not thereafter be liable to any person for the same and any action which may be brought by any person against any bank for moneys so deposited with the state treasurer shall be defended by the attorney general without cost to such bank.

Bank making deposit with State Treasurer under Section not thereafter liable.

[Note by Publishers, re Section 15, as amended 1915:

A copy of Section 1273, Code of Civil Procedure, which section is referred to in the above section is set forth in Appendix at the end of this Act.]

(Section 16. Repealed 1919.)

[Note by Publishers, re Section 16, repealed 1919:

The first paragraph of Sec. 16 is simply declarative of the right of Savings Banks to indue a joint deposit with right of survivorship. It was not deemed necessary to retain that part of the section. (See *Crowley vs. Union Savings Bank and Trust Co.*, 30 Cal., App. 144, and *McCarty vs. Holland*, 30 Cal., App. 495.)

The second and last paragraphs of Section 16 of the Bank Act and Section 1454 of the Code of Civil Procedure were substantially the same. Both related to a privilege granted to certain surviving heirs of a deceased depositor in a bank to withdraw from that bank any sum not greater than \$1,000 if that sum is the aggregate of all moneys deposited in banks of this State by the deceased depositor. There was pending before the Legislature at the 1919 Session just closed an amendment to said Section 1454 to permit, under similar conditions, the additional right of receiving personal property on deposit or in safe deposit boxes in an amount not to exceed \$500. In order not to provoke a conflict as between that Section and Section 16 of the Bank Act, Section 16 was repealed. The amendment to Section 1454, however, failed of passage, and the subject is therefore governed by Section 1454 in its existing form. For a copy of said Section, see Appendix.]

Section 17. Every bank now in existence or hereafter organized shall keep in its offices, in a place accessible to the stockholders, depositors, and creditors thereof, and for their use, a book containing a list of stockholders in such corporation, and the number of shares of stock held by each; and every such bank shall keep posted in its office, in a conspicuous place, accessible to the public generally, a notice signed by the president or secretary, showing:

Banks shall keep accessible list of stockholders and their holdings.

Bank shall post in office accessible to public a list of directors and their share holdings.

1. The names of the directors of such bank.
2. The number and the par value of the shares of stock held by each director.

Entries on such book and notice to be posted within 24 hours after stock transfer.

The entries on such book and such notice shall be made and posted within twenty-four hours after any transfer of stock, and shall be prima facie evidence against each director and stockholder of the number of shares of stock held by each.

(Section 18. Repealed 1913.)

Percentage of paid-up capital and surplus to deposits.

Section 19. The aggregate of paid-up capital together with the surplus, of every commercial bank, must equal ten per centum of its deposit liabilities. The aggregate of paid-up capital and surplus of every savings bank having a capital stock, and the reserve fund of every savings bank without a capital stock, must equal the following percentages of its deposit liabilities:

Percentage of paid-up capital and surplus of savings bank having capital stock, and reserve fund of savings bank without capital stock.

(a) Ten per centum of any amount up to and including two million dollars.

(b) Seven and one-half per centum of any amount in excess of two million dollars up to and including five million dollars.

(c) Five per centum of any amount in excess of five million dollars up to and including fifteen million dollars.

(d) Two and one-half per centum of any amount in excess of fifteen million dollars up to and including forty million dollars.

(e) One per centum of any amount in excess of forty million dollars.

Restriction on increase of deposits.

The deposits shall not be increased if such proportion of paid-up capital and surplus or reserve fund to deposit liabilities is not maintained, and in no event shall said paid-up capital be less than the minimum paid-up capital provided by this act; provided, that such deposit liabilities shall be exclusive of United States and postal savings deposits and deposits of the State of California and of any

Deposit liabilities to be exclusive of governmental deposits.

county and municipality in the State of California which are secured as required by law.

[Note by Publishers, re Section 19, amended 1919:

This amendment releases deposits of the United States and deposits of the State of California and of any county and municipality in the State of California which are secured as required by law from the aggregate of deposit liability against which capital must be maintained in the commercial and savings banks of this State. The fact that these public deposits are secured makes it unnecessary to require a double security by adding to the collateral pledged by the bank for the deposits an increase in capital of the bank. The purpose of the amendment is to relieve State banks, without in any sense lessening their responsibility in capital, from a burden which the national laws do not require from National banking associations.]

Section 20. Every commercial bank shall maintain total reserves against its aggregate deposits, exclusive of United States and postal savings deposits and deposits of the State of California and of any county and municipality in the State of California, which are secured as required by law, as follows:

Commercial bank to maintain total reserves against aggregate deposits as specified.

1. Eighteen per centum of such deposits if such bank has its principal place of business in a city having a population of one hundred thousand or over.

2. Fifteen per centum of such deposits, if such bank is located in a city having a population of fifty thousand or over and less than one hundred thousand.

3. Twelve per centum of such deposits if such bank is located elsewhere in the State.

At least one-half of the total reserves shall be maintained as reserves on hand and shall consist of gold bullion or any form of money or currency authorized by the laws of the United States, and the remainder of the total reserves required by the provisions of this section shall be maintained as reserves on deposit or as reserves on hand; such reserves on hand to consist of gold bullion or any form of money or currency authorized by the laws of the United States; provided, however, that all or any part of the reserves may be deposited, subject to call, with a federal reserve bank in the district in which such bank is located.

Total reserves; how maintained and constituted.

All or part of reserves may be deposited with Federal Reserve Bank.

Bank becoming member of Federal Reserve Bank to comply with requirements of Federal Reserve Act.

If any bank shall have become a member of a federal reserve bank, it shall comply with the reserve requirements of the federal reserve act and its amendments, and its compliance therewith shall be in lieu of, and shall relieve such bank from compliance with, the provisions of this section.

Penalties for not maintaining total reserves required.

If any bank shall not maintain the total reserves required the superintendent of banks may impose a penalty upon it, based upon the length of time such encroachment upon its total reserves amounting to one per centum or more of its aggregate deposits shall continue, at the following rates:

1. At the rate of six per centum per annum upon any such encroachment not exceeding two per centum of such deposits.

2. At the rate of eight per centum per annum upon any additional encroachment in excess of two and not exceeding three per centum of such deposits.

3. At the rate of ten per centum per annum upon any additional encroachment in excess of three and not exceeding four per centum of such deposits.

4. At the rate of twelve per centum per annum upon any additional encroachment in excess of four per centum of such deposits.

Designation by Supt. of depository for reserves on deposit.

The superintendent of banks shall, in his discretion, upon the nomination of any bank, designate a depository or depositories for the reserves on deposit of such bank provided for by this act. Except as otherwise provided in this section, such depository shall be a bank or national banking association located in this state. Every reserve depository, which has its principal place of business in a judicial township or in a city located in this state in which the population is less than fifty thousand, shall have at all times as its total reserves an amount equal to

Total-reserve requirements for reserve depository.

the total reserves required by the provisions of this section for every bank which has its principal place of business in a city having a population of fifty thousand or over and less than one hundred thousand. But no bank or national banking association shall hereafter be designated as a depository of any such reserves unless it shall have a combined capital and surplus of not less than the following amounts:

Requirements of bank or Natl. banking Assn. to be designated as reserve depository.

1. Two hundred fifty thousand dollars, if located in a city which has a population of three hundred thousand or over;

2. Two hundred thousand dollars, if located in a city which has a population of one hundred thousand or over and less than three hundred thousand;

3. One hundred fifty thousand dollars, if located in a city which has a population of fifty thousand or over and less than one hundred thousand;

4. One hundred thousand dollars, if located elsewhere in the state.

Such depository may also be a banking corporation with a capital and surplus of one million dollars or more, located in any city in the United States.

Such depository may also be banking corporation with capital and surplus as specified.

If the total reserves of any bank shall be less than the amount required by this section, such bank shall not increase its liabilities by making any new loans or discounts, otherwise than by discounting bills of exchange on sight, or by paying any dividends from profits until the full amount of its total reserves has been restored.

Effect of impairment of total reserves.

The superintendent of banks may notify any bank whose total reserves shall be below the amount herein required, to restore such total reserves; and, if it shall fail for thirty days thereafter to restore such total reserves, such bank shall be deemed insolvent and may be proceeded against under the provisions of this act; provided, that all deposits

Bank failing, after 30-day notice from Supt., to restore total reserves, deemed insolvent.

Deposits to comply with Sec. 43.

of money herein permitted or required shall comply with the provisions of section forty-three of this act.

Definitions—
“Reserves on hand.”

The term, “reserves on hand,” when used in this act, means the reserves against deposits kept, pursuant to the provisions of this act, in the vault of any bank or in any safety deposit box in any other bank in this state, said box to be under the exclusive control of the depositing bank.

“Reserves on deposit.”

The term, “reserves on deposit,” when used in this act, means the reserves against deposits maintained by any bank pursuant to this act in reserve depositories, or in a federal reserve bank in the district in which such bank is located and not in excess of the amount authorized by this act.

“Total reserves.”

The term, “total reserves,” when used in this act, means the aggregate of reserves on hand and reserves on deposit maintained pursuant to the provisions of this act.

“Reserve depository.”

The term, “reserve depository,” when used in this act, means a bank, trust company or banking corporation designated by the superintendent of banks on the nomination of the depositing bank as a depository for reserves on deposit.

[Note by Publishers, re Section 20, amended in 1917 and 1919:

By the 1919 amendment Section 20 was made the first of a series of amendments intended to bring the banks of the State system into relationship established by membership in Federal Reserve Banks with the Federal system, but without in any way invading or impairing the scheme of reserves as fixed by the Bank Act of California. The other sections of said series of amendments providing for the entrance of State banks into the Federal Reserve system as member banks, are Sections 56 and 68. For the scope and purpose of these last two sections, reference is made to the same and to the notes thereto in this edition.

The 1919 amendment of Section 20 assumes two forms: First, it permits the carrying of reserves on hand in any money or currency authorized by the laws of the United States; and, Second, permits any bank in the State to carry any or all of its reserves, either those on hand or those on deposit, in a Federal Reserve bank. The primary consideration is to permit such banks of the State system as become members of the Federal Reserve Bank to carry reserves established by the Federal Reserve Board for all member banks of the system, in lieu of the reserves demanded by the Bank Act of California. The 1919 amendment enables any bank under the jurisdiction of the laws of California, whether a member of the Federal Reserve Bank or not, to contribute its gold to the Federal Reserve banks without a violation of our State law, and the change also gives full freedom to all of the banks in the State to avail themselves of the privilege of entering the Federal Reserve system as State member banks.

The 1917 amendment amended the section in one rather important matter, namely, to permit banks to have part or all of their reserves on hand, which heretofore had to be held in their own vaults; for instance, in safe deposit vaults.

These reserves must be kept under the actual control of the banks owning them and be accessible only to themselves; the purpose being, of course, to save the small bank in an isolated town from the hazard of burglary, a danger that has caused a good deal of concern in the smaller places. The 1917 amendment enables the smaller banks to have their reserves in the larger centers, thus affording ample protection.]

Section 21. The directors of any bank having a capital stock may, at certain times, and in such manner as its by-laws prescribe, declare and pay dividends to depositors and stockholders of so much of the profits of the bank, and of the interest arising from the capital, surplus and deposits, as may be appropriated for that purpose under its by-laws or under its agreements with depositors, but every such bank shall, before the declaration of any such dividend, carry at least one-tenth part of the net profits of the stockholders for the preceding half year, or for such period as is covered by the dividend, to its surplus, until such surplus shall amount to twenty-five per centum of its paid-up capital stock. The whole or any part of such surplus, if held as the exclusive property of the stockholders, may at any time be converted into paid in capital, in which event such surplus shall be restored in the manner above provided until it amounts to twenty-five per centum of the aggregate paid-up capital stock. Subject to the provisions of section nineteen of this act, any losses sustained by any such bank in excess of its undivided profits may be charged to and paid from its surplus, in which event such surplus shall be restored in the manner above provided, to the amount required by law; provided, however, that any bank which has invested any portion of its surplus in its bank premises, furniture and fixtures, vaults, or safe deposit vaults, and boxes necessary or proper to carry on its banking business shall not be permitted to charge any loss to that portion of its surplus so invested. A larger surplus may be created and nothing herein contained shall be construed as prohibitory thereof. The capital and assets of any such bank are a security to depositors and stockholders, depositors having the priority of security over stockholders.

Directors of bank having capital stock may declare and pay dividends, as specified.

Surplus convertible into paid-in capital, in which event surplus to be restored.

Losses sustained in excess of undivided profits may be charged to and paid from surplus, etc.

Depositors have priority of security over stockholders.

Preference to depositor or creditor prohibited, except as otherwise authorized;

Provided, commercial bank may borrow money and pledge assets, within amount and upon conditions specified.

Not exceeding capital and surplus; provisos as to excess loans.

Rediscounting, notes, loans, etc., with Federal Reserve bank not borrowed money.

Public moneys or funds of State and its subdivisions.

U. S. moneys and postal savings and pledge of securities, under U. S. laws.

Section 21a. No bank, banker, or bank officer, shall give preference to any depositor or creditor except as otherwise authorized by law; provided, that any commercial bank or commercial department of a departmental bank, is authorized and empowered for temporary purposes, to borrow money, or to borrow money and pledge or hypothecate as collateral security therefor, its assets not exceeding fifty per centum in excess of the amount borrowed, but only to the extent and upon terms and conditions as follows:

(1) Any amount up to, but not exceeding the amount of its capital and surplus, without consent of the superintendent of banks; provided, however, that any amount borrowed, except as otherwise provided in this section, in excess of the amount of its capital and surplus, at such time actually paid in and remaining undiminished by losses or otherwise, must first be approved in writing by the superintendent of banks; provided, also, that no excess loan made to any such bank shall be invalid or illegal as to the lender, even though made without the consent of the superintendent of banks; provided, also, that the rediscounting with or without guarantee or endorsement with a federal reserve bank, of notes, drafts, bills of exchange and loans secured by obligations of the United States, is hereby authorized and shall not be limited by the terms of this act, and shall not be considered as borrowed money within the meaning of this section.

(2) Any amount of California, state, county, city, city and county funds, or any other public money, in the manner it is or may be authorized by law to borrow and receive such public money on deposit without the approval of the superintendent of banks.

(3) Any amount of the United States moneys and postal savings moneys of the United States, and receive such moneys on deposit, and pledge or hypothecate such of its securities and upon such terms as may be required

by the laws of the United States or the rules and regulations of the secretary of the treasury of the United States, without the approval of the superintendent of banks.

(4) Any amount, in addition to the amounts authorized to be borrowed in this section, for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States.

Buying from U. S. bonds and other U. S. obligations.

(5) To rediscount with and sell to a federal reserve bank any and all such notes, drafts, bills of exchange, acceptances and any other securities, with no other restrictions, and as fully, and to the same extent as this privilege is given to national bank members under the terms of the federal reserve act, or by regulations of the federal reserve board made pursuant thereto.

Rediscounting with Federal Reserve bank notes, etc., as specified.

(6) No bank shall make partial payments upon any certificate of deposit.

Partial payments upon deposit.

(7) In no case shall an overdraft of more than ninety days' standing be allowed as an asset of any bank.

90-day overdraft not asset.

(8) Any debt due to any commercial bank, on which interest is past due and unpaid for the period of one year, unless the same is well secured, and is in process of collection, shall be considered a bad debt and shall be charged off to the profit and loss account at the expiration of that time.

Debt due commercial bank, when bad debt.

[Note by Publishers, re Section 21a, amended 1919:

The purpose of this amendment is to establish the limitations within which commercial banks in the State system may borrow money. It is intended to restrict this capacity so as to prevent inflation, unwise and unwarranted broadening of activities, and the dangers involved in operating on borrowed money. The amendment maintains all of those restrictions, but enlarges the privilege of commercial banks, to rediscount with a Federal Reserve bank such notes, drafts, bills of exchange and loans to the same extent as is granted by the National law to National bank members of the Federal system. The amendment was deemed necessary to place banks in the State system on a parity of privilege with their competing National bank members. The change is demanded in order that the State banks may meet the obligations of commerce upon a parity with commercial banks organized under the laws of the Federal government.

There is permitted also the privilege to any State commercial bank to borrow any amount for the purpose of buying from the United States, United States bonds, United States Treasury Certificates, or notes or obligations of the United States. This is to

permit our State Banks to play their proper part in the financing of national obligations.]

Corporation so authorized may combine business of commercial and savings banks and trust company, etc.

Section 22. Any corporation authorized by its articles of incorporation so to do, may combine the business of a commercial bank and savings bank and trust company, or any one or more or all of them; provided, that no corporation authorized to transact a trust business and which is also organized to engage in the business of title insurance, shall engage in or combine the business of a commercial bank or savings bank.

Prerequisites to doing departmental business.

Section 23. When a bank desires to do a departmental business, it shall first obtain the consent of the superintendent of banks, and in its application therefor, file a statement making a segregation of its capital and surplus for each department. Such capital and surplus, when so apportioned and approved by the superintendent of banks, shall be considered and treated as the separate capital and surplus of such department as if each department was a separate bank. Thereafter a bank may, from time to time, with the previous consent and approval of the superintendent of banks and subject to the provisions of section nineteen of this act, change any segregation and apportionment of capital and surplus previously made and make a new segregation and apportionment of its capital and surplus. Every bank hereafter organized doing a departmental business shall have paid up, in cash, capital stock as follows:

Apportionment and segregation of capital and surplus of such banks.

Paid-up capital stock requirements.

Where population not over 5,000.

(a) In any locality in which the population does not exceed five thousand persons, not less than twenty-five thousand dollars if it transacts both a commercial and savings business, or not less than one hundred twenty-five thousand dollars if it transacts both a commercial and trust business, or not less than one hundred twenty-five thousand dollars if it transacts both a savings and trust business and not less than one hundred twenty-five thousand dollars if it transacts a commercial, savings and trust business.

(b) In any city in which the population is more than five thousand persons, but does not exceed twenty-five thousand persons, not less than fifty thousand dollars if it transacts both a commercial and savings business, or not less than one hundred fifty thousand dollars if it transacts both a commercial and trust business, or not less than one hundred fifty thousand dollars if it transacts both a savings and trust business, and not less than one hundred fifty thousand dollars if it transacts a commercial, savings and trust business.

Where population
5,000 to 25,000.

(c) In any city in which the population is more than twenty-five thousand persons but does not exceed one hundred thousand persons, not less than one hundred thousand dollars, if it transacts both a commercial and savings business, or not less than two hundred thousand dollars if it transacts both a commercial and trust business, or not less than two hundred thousand dollars if it transacts both a savings and trust business, and not less than two hundred thousand dollars if it transacts a commercial, savings and trust business.

Where population
25,000 to 100,000.

(d) In any city in which the population is more than one hundred thousand persons but does not exceed two hundred thousand persons, not less than two hundred thousand dollars, if it transacts both a commercial and savings business, or not less than four hundred thousand dollars if it transacts both a commercial and trust business, or not less than four hundred thousand dollars if it transacts both a savings and trust business, and not less than four hundred thousand dollars if it transacts a commercial, savings and trust business.

Where population
100,000 to 200,000.

(e) In any city in which the population exceeds two hundred thousand persons, not less than three hundred thousand dollars if it transacts both a commercial and savings business, or not less than five hundred thousand dollars if it transacts both a commercial and trust business, or not less than five hundred thousand dollars if it

Where population
exceeds 200,000.

transacts both a savings and trust business, and not less than five hundred thousand dollars if it transacts a commercial, savings and trust business.

Foregoing classification not applicable to existing bank, or bank included by annexation in larger city.

The foregoing classification shall not apply to any bank already in existence which has received from the superintendent of banks a certificate to do a banking business; nor to any bank the location of which shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception. The capital stock referred to herein shall be increased from time to time and to the same extent as provided for in section nineteen of this act.

Population, for purposes of Act—how determined.

For the purposes of this act, the population shown and determined by the last preceding federal census, or any subsequent census compiled and certified under any law of this state, shall be deemed to be the population of any city in which any such bank is to be organized. If the principal place of business of any bank so organized is located outside of the corporate limits of any city, then the population of that portion of the judicial township in which said bank is to have its principal place of business, which is not included within the boundaries of any municipal corporation, as such population is shown and determined by such federal or subsequent official census,

shall be the basis for classification under the provisions of this act.

Section 24. Every bank, before it commences to do business or before it opens a new department and commences to transact business in or under such new department, shall obtain the certificate of the superintendent of banks for the opening of each of the departments specified. Each certificate herein provided for shall be given when the superintendent shall, by the examination required by this act, have satisfied himself that the proper amount of cash has been paid in as capital and the provisions of this act complied with. The applicant shall pay for the certificate for each department a fee of fifty dollars.

Bank before commencing business or opening new department shall obtain certificate of Supt., etc.

Section 25. Every bank shall maintain for each department total reserves equal in amount to that required by this act for the respective business conducted, and shall keep separate and distinct the total reserves of any department from that of any other department; and all deposits made with other banks, whether temporary or otherwise, shall be assets of the respective departments by which they were made, and shall be so carried on the books of such other banks, and shall be repaid only upon the order of the department to whose credit they stand. No department shall receive deposits from any other department of the same corporation; except that a trust department, in proper cases, may make deposits of trust or any other funds under its control with the savings department of the same corporation and may, upon order, previously obtained, of any court having jurisdiction of any trust or fund, make deposits of moneys belonging thereto with the commercial department of the same corporation; provided, however, that any bank having departments shall have the right to sell and transfer any bonds, securities or loans from one department to another upon receipt of the actual value thereof, if such bonds,

Bank to maintain separate, specified total reserves.

Deposits by department with other banks—how treated.

Bonds, etc., may be sold and transferred from one department to another.

securities or loans are, under the provisions of this act, a legal investment for the department purchasing the same.

Each department to keep separate books and be governed by provisions of Act.

Section 26. Every bank having different departments shall keep separate books of account for each department of its business, and shall be governed as to all deposits, reserves, investments and transactions relating to each department by the provisions of this act specifically provided for the respective kind of business.

It shall keep all investments relating to the savings department entirely separate and apart from the investments of its other department or departments.

Mingling of cash, securities, etc., forbidden.

Every bank shall conduct the business of all its departments in one building, or in adjoining buildings, and shall keep entirely separate and apart in each department the cash, securities and property belonging to such department, and shall not mingle the cash, securities and property of one department with that of another.

Moneys and assets of each department held for repayment of its depositors, etc.

Section 27. All money and assets belonging to each department, whether on hand or with other banks, and the investments made, shall be held solely for the repayment of the depositors and other claimants of each such department, as herein provided, until all depositors and other claimants of each such department shall have been paid, and the overplus then remaining shall be applied to any other liabilities of such bank.

Every bank must on signs, advertising, etc., specify its business—"savings," "trust" or "commercial."

Section 28. Every bank in this state must, on all its window signs and in advertising, and on letterheads and other stationery on which its business is transacted, use the word "savings" if it conducts a savings business, or the word "trust" if it conducts a trust business, and the word "commercial" if it conducts a commercial business.

Branch bank requirements.

Every bank which maintains a branch office, must on all window signs and in advertising, and on letterheads and other stationery on which the business of said branch

office is transacted, use in letters and type, equal in prominence to that used in its corporate name, the word "branch" and the name of the place where its principal business is located.

[Note by Publishers, re Section 28:

The purpose of this section, amended in 1917, dealing with the matter of how branch offices shall present their relationship to the public, is that there shall be no possible confusion as to the identity of a branch office as such, or suppression of the fact that it is a branch and not a principal place of business.]

Section 29. Every corporation heretofore created under the laws of this state, doing a banking business therein, and which has no capital stock, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner as corporations formed under the provisions of Part IV, Title I, Chapter I, Article I, of the Civil Code, relating to the formation of corporations; provided, that no such corporation shall use or convert any moneys or funds theretofore belonging to it, or under its control, into capital stock; but such funds or moneys must be held and managed only for the purposes and in the manner for which they were created. Before such change is made, a majority of the members of such corporation present at a meeting called for the purpose of considering the proposition whether it is best to have a capital stock, its amount, and the number of shares into which it shall be divided, must vote in favor of having a capital stock, fix the amount thereof, and the number of shares into which it shall be divided. Notice of the time and place of holding such meeting, and its object, must be given by the president of such corporation by mailing notice of such meeting to each member of such corporation at his last known post-office address at least ten days prior to the day fixed for such meeting, and by publication in some newspaper printed and published in the county, or city and county, in which the principal place of business of the corporation is situated, at least once a week for three successive weeks prior to the holding of the meeting. A copy of the proceedings of this meeting, giving the number of persons present, the votes

Bank without capital stock may convert into stock company.

Prerequisites to such conversion.

Certified copy of proceedings, etc., to be filed with Secretary of State and county clerk.

Effect of proceedings.

taken, the notice calling the meeting, the proof of its publication, the amount of capital actually subscribed, and by whom, all duly certified by the president and secretary of the corporation, must be filed in the office of the secretary of state and clerk of the county where the articles of incorporation are filed. Thereafter such corporation is possessed of all the rights and powers, and is subject to all the obligations, restrictions, and limitations, as if it had been originally created with a capital stock.

Safe deposit department.

Section 30. Any bank may conduct a safe deposit department, but shall not invest more than one-tenth of its capital and surplus in such safe deposit department.

Business of bank or of department may be sold to other bank.

Section 31. Any bank may sell the whole of its business or the whole of the business of any of its departments to any other bank which may purchase such business after obtaining the consent of the stockholders of the selling and of the purchasing banks holding of record at least two-thirds of the issued capital stock of each of such corporations; such consent to be expressed either in writing executed and acknowledged by such stockholders and attached to the instrument of sale, or to a copy thereof, or by vote at a stockholders' meeting of each of such banks called for that purpose. The selling and purchasing banks must for such purposes enter into an agreement of sale and purchase, which agreement shall contain all the terms and conditions connected with such sale and purchase. Such agreement shall contain proper provision for the payment of liabilities of the selling bank or of the department sold, and in this particular shall be subject to the approval of the superintendent of banks; and shall not be valid until such approval is obtained. Such agreement may contain provisions for the transfer of all deposits to the purchasing bank, subject, however, to the right of every depositor of the selling bank to withdraw his deposit in full on de-

Banks must enter into agreement of sale containing specified provisions.

mand after such transfer, irrespective of the terms under which it was deposited with the selling bank. The rights of creditors of the selling bank shall not in any manner be impaired by any such sale, nor shall any liability or obligation for the payment of any money due or to become due, or any claim or demand, in any manner, or for any cause existing against such selling bank or against any stockholder thereof, be in any manner released or impaired, and all the rights, obligations and relations of all the parties, creditors, depositors, trustees and beneficiaries of trusts shall remain unimpaired by the sale, but such bank to which the other shall sell all its business or all the business of any of its departments, shall succeed to all such relations, obligations, trusts and liabilities and be held liable to pay and discharge all such debts and liabilities and to perform all such trusts of the selling bank in the same manner as if such bank to which the other had sold had itself incurred the obligation or liability or assumed the relation of trust, and the stockholders of the respective corporations so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them as such at or before such sale. Immediately after the execution of such agreement of sale and purchase notice thereof shall be published for at least four successive weeks in a newspaper in each of the counties of the state in which either of such banks shall have its principal place of business; provided, however, that no action can be brought against such selling bank or any of its stockholders on account of any deposits so transferred after the expiration of one year from the last day of publication herein required.

Purchasing bank succeeds to rights and obligations of selling bank.

Stockholders remain liable.

Notice of sale to be published.

Limitation of actions.

An affidavit showing such publication shall be filed in the office of the superintendent of banks within ten days after the last publication thereof. The affairs of such selling bank, or selling department of a bank, shall remain subject to the provisions of this act.

State banks may
consolidate, upon
approval of Supt.
and ratification of
stockholders as
specified.

Section 31a. Any bank incorporated under the laws of this state may consolidate with one or more banks incorporated under the laws of this state, its capital stock, properties, trusts, claims, demands, contracts, agreements, obligations, debts, liabilities and assets of every kind and description, upon such terms and in such manner as may be agreed upon by their respective boards of directors, a copy of which agreement must be filed in the office of the superintendent of banks; provided, that such agreement shall be subject to the approval of the superintendent of banks and shall not be valid until such approval be obtained; provided, further, that no such consolidation shall take effect until such agreement shall have been ratified and confirmed in writing by the stockholders of the respective banks holding of record at least two-thirds of the issued capital stock of their respective banks, or such agreement may be submitted to the stockholders of each of such corporations at a meeting thereof to be called upon notice specifying the time, place and object thereof, addressed to each stockholder at his last known post-office address and deposited in the post-office, postage prepaid, at least two weeks prior to the date fixed for said meeting, and published for at least two successive weeks, prior to the date of said meeting, in a newspaper in each of the counties of the state in which any of such banks shall have its principal place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately by the vote or ballot of the stockholders owning at least two-thirds of the stock of each such bank, the same shall be the agreement of such banks. In case of such consolidation "articles of incorporation and consolidation" must be prepared, setting forth:

Contents of articles:
consolidation.

First—The name of the new corporation;

Second—The purpose for which it is formed;

Third—The place where its principal business is to be transacted;

Fourth—The term for which it is to exist, which shall not exceed fifty years;

Fifth—The number of its directors (which shall not be less than three) and the names and residences of the persons appointed to act as such until their successors are elected and qualified;

Sixth—The amount of its capital stock and the number of shares into which it is divided;

Seventh—The amount of stock actually subscribed, and by whom;

Eighth—The names of the constituent corporations.

Said articles of incorporation and consolidation must be signed and countersigned by the president and secretary of each constituent corporation and sealed with their corporate seals. There must be annexed thereto the approval of the superintendent of banks and memoranda of the ratification and confirmation thereof by the stockholders of each constituent corporation, which must be respectively signed and acknowledged by stockholders representing at least two-thirds of the capital stock of their respective corporations. When completed as aforesaid said articles must be filed in the office of the county clerk of the county in which is located the principal place of business of the new corporation, and a copy of the articles of incorporation and consolidation certified by such county clerk must be filed in the office of the secretary of state, who must issue, over the great seal of the state, a certificate that a copy of the articles of incorporation and consolidation containing the required statement of facts has been filed in his office. The secretary of state must file in his office a duplicate of the certificate hereinbefore provided for and copies thereof,

Articles to be executed as specified.

Articles with whom to be filed.

Effect of Supt. issuing certificate.

duly certified by the secretary of state, shall have the same force and effect in evidence as the original. A copy of the articles of incorporation and consolidation, certified by said secretary of state, must be filed in the office of the superintendent of banks, and also in the office of the county clerk of any county in which were filed the original articles of incorporation of either of the constituent corporations. When the superintendent of banks issues the certificate of authorization provided for by section one hundred twenty-eight of this act the new or consolidated corporation shall be a body politic and corporate by the name stated in the certificate, and for the term of fifty years, unless it is, in the articles of incorporation and consolidation, otherwise stated and thereupon each constituent corporation named in the articles of incorporation and consolidation must be deemed and held to have become extinct in all courts and places, and said new corporation must be deemed and held in all courts and places to have succeeded to all their several capital stocks, properties, trusts, claims, demands, contracts, agreements, assets, choses and rights in action of every kind and description, both at law and in equity, and to be entitled to possess, enjoy, and enforce the same and every thereof, as fully and completely as either and every of its constituents might have done had no consolidation taken place. Said consolidated or new corporation must also, in all courts and places, be deemed and held to have become subrogated to its several constituents and each thereof, in respect to all their contracts and agreements with other parties, and all their debts, obligations, and liabilities, of every kind and nature, to any persons, corporations, or bodies politic, whomsoever, or whatsoever, and said new corporation must sue and be sued in its own name in any and every case in which any or either of its constituents might have sued or might have been sued at law or in equity had no such consolidation been made. Nothing in this section

contained shall be construed to impair the obligation of any contract to which any of such constituents were parties at the date of such consolidation. All such contracts may be enforced by action or suit, as the case may be, against the consolidated corporation, and satisfaction obtained out of the property which, at the date of the consolidation, belonged to the constituent which was a party to the contract in action or suit, as well as out of any other property belonging to the consolidated corporation, and the stockholders of each constituent corporation so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them at or before such consolidation to the same extent as if the same had not been made. The right of said new corporation to increase or decrease its capital stock, to change the number of its directors, to amend its articles of incorporation, to change its principal place of business, or its name, or to effect any other organic change shall be governed by the general corporation laws of this state and by the bank act, and the procedure to effect any such change shall be that defined by the general corporation laws and the bank act.

Right of new corporation to effect organic changes.

The superintendent of banks shall transmit to the secretary of state a duplicate of the certificate of authorization hereinbefore referred to and the secretary of state shall file the same in his office. The superintendent of banks shall also file a duplicate of such certificate in his own office.

Supt. to transmit to Secy. of State duplicate of certificate.

[Note by Publishers, re Section 31a, amended in 1917, dealing with the creation of corporations through merging:

Under the provisions of the Act as they previously stood, there was an interim between the time of completion of the organization and the time at which the merged corporation might receive its certificate from the Superintendent of Banks. Under the general law governing corporations, a corporation is formed, completely equipped to perform its service, in the office of the Secretary of State; but a merged banking corporation, being composed of two or more constituent corporations, could not effectively be completed at that point, because upon merger the two constituent corporations disappear, and the new corporation can not receive a certificate from the Superintendent of Banks until the new corporation is completed. This amendment makes it plain that the organization of the new corporation is not complete until the certified articles of incorporation are filed with the Superintendent of Banks and his certificate issued, so that there shall be no interim between the forming of the new and the expiring of an old corporation.]

Bank not to mingle
trust funds with
other assets.

Section 32. Any bank receiving trust funds in accordance with the provisions of this act relating to trust companies must not mingle such trust funds with the other assets of the corporation, except as otherwise provided in section twenty-five of this act, and such funds shall not be carried or counted as any part of the total reserves provided for in this act. The officers of any bank who knowingly violate or consent to the violation of this provision shall be guilty of a felony.

Violation of pro-
vision, felony.

(Section 33. Repealed 1913.)

No bank to purchase,
invest or lend upon
its capital stock,
unless to prevent
loss on debt.

Section 34. No bank shall purchase or invest its capital or surplus or money of its depositors, or any part of either, in shares of its own capital stock; nor loan its capital or surplus or money of its depositors, or any part of either, on shares of its own capital stock, unless such purchase or loan shall be necessary to prevent loss to such bank on debts previously contracted in good faith.

Penalty. Every person or corporation violating any provision of this section shall forfeit to the people of the state twice the nominal amount of such stock.

Limitations upon
purchase of realty
note or bond by in-
terested officers, etc.

Section 35. No bank shall purchase any contract arising from the sale of real estate or any note or bond in which contract, or note, or bond any director, officer, employee, or controlling stockholder of such bank is personally or financially interested, directly or indirectly, for his own account, for himself, or as the partner or agent of others, without the previous consent in writing of the superintendent of banks.

Commercial bank
receiving deposits
not to purchase bond
issue in excess of
5% of assets, except
governmental bonds.

Section 36. No commercial bank receiving deposits of money shall purchase or agree to purchase any bond issue in excess of five per centum of its assets, except bonds of the United States, of the State of California, of the counties, cities and counties, cities or school districts of this state, or bonds of any irrigation district such as are legal for investment by savings banks.

Section 37. No bank shall, except as otherwise provided in this act, purchase or invest its capital or surplus or money of its depositors, or any part of either, in the capital stock of any corporation unless the purchase or acquisition of such capital stock shall be necessary to prevent loss to the bank on an obligation owned or on a debt previously contracted in good faith. Any capital stock so purchased or acquired shall be sold by such bank within six months thereafter if it can be sold for the amount of the claim of such bank against it; and all capital stock thus purchased or acquired must be sold for the best price obtainable by said bank within three years after such purchase or acquisition unless the superintendent of banks shall extend the time of its sale for a period not to exceed two years.

Restriction on purchasing or investing in capital stock of any corporation.

Capital stock so purchased to be sold.

Any bank, with the previous written consent of the superintendent of banks, may purchase or otherwise acquire and hold the whole or any part of the capital stock of not more than one trust company organized and existing under the laws of this state, and doing business in the same city in which the principal place of business of such bank is located; provided, however, that not more than an amount equal to twenty-five per centum of the capital and surplus of any such bank may be at any one time invested in the capital stock of such trust company or such other corporation; and provided, further, that no such trust company shall engage in or combine the business of a commercial bank or a savings bank or a title insurance company.

Bank after consent of Supt., may acquire capital stock of one California trust company.

Limitation on such purchase.

Any bank, with the previous written consent of the superintendent of banks, may purchase or otherwise acquire and hold, the whole or any part of the capital stock of not more than one corporation authorized and empowered to conduct a safe deposit business, which such corporation is organized and existing under the laws of this state and doing business in the same city in which

Bank, with consent of Supt., may purchase, etc., stock of one safe-deposit corporation in same city.

Limitation on such
investment.

the principal place of business of such bank is located; provided, however, that not more than an amount equal to ten per centum of the capital and surplus of any such bank may be at any one time invested in the capital stock of such safe deposit corporation.

[Note by Publishers, re Section 37, amended 1919:

This amendment affects Section 27 in two vital relationships: First, the amendment permits any bank, with the previous written consent of the Superintendent of Banks, to purchase or otherwise acquire and hold the whole or any part of the capital stock of not more than one trust company organized and existing under the laws of this State, if that purchase shall not exceed 25 per cent. of the capital and surplus of any such bank, and also permits any bank, with the previous consent of the Superintendent of Banks, to purchase the whole or any part of the capital stock of not more than one corporation authorized and empowered to conduct a safe deposit business. The first change is intended to permit a strengthening of the trust companies in this State and also to indulge smaller banks in a desire to participate in the profits of those companies; and the second is an incident necessary and familiar in the conduct of the banking business, but which may not be within the reach of the smaller capitalized institutions. Care is taken, however, to prevent any commercial or savings bank from engaging in a title insurance company business. The amendment is a desirable one because of its concentration of banking energy and for the permission granted to smaller institutions to participate in the prosperity which follows the operations of larger corporations.]

Director, agent, etc.,
of bank making or
concurring in false
entry or report, or in
omitting to make
full and true entries,
etc., guilty of felony.

Section 38. A director, officer, agent or employee of any bank who,

First—Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in its books and accounts; or,

Second—Concurs in omitting to make any material entry thereof; or,

Third—Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which is false; or,

Fourth—Having the custody or control of its books, wilfully refuses or neglects to make any proper entry in the books of such corporation as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by the superintendent of banks, his chief deputy or any of his examiners, shall be guilty of a felony.

Section 39. Any officer, director, agent, teller, clerk or employee of any bank who either,

Bank director or employee overdrawing accounts or receiving commissions on loan guilty of felony.

First—Knowingly overdraws his account with such bank, and thereby obtains the money, notes or funds of any such bank; or

Second—Asks or receives or consents or agrees to receive any commission, emolument, gratuity or reward, or any money, property or thing of value, for his own personal benefit, or of personal advantage, for procuring or endeavoring to procure for any person, firm or corporation any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange, by such bank, or for permitting any person, firm or corporation to overdraw any account with such bank, is guilty of a felony.

Section 40. No bank mentioned in this act shall make any contract with any of its depositors whereby the stockholders' liability provided for by the constitution of this state is in any manner waived, and if any such contract shall be so made, such contract shall be void.

Contract of bank to waive stockholder's liability, void.

Section 41. No officer, director, agent, or other employee of any bank shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of such bank's obligations or assets for a less sum than shall appear upon the face of any such obligations or assets to be the value thereof except with the previous consent of all the directors of said bank, such consent to be evidenced by a resolution adopted by said directors. A certified copy of said resolution shall immediately be transmitted to the superintendent of banks. Every person violating any provision of this section, shall for each offense forfeit to the people of the state, twice the face value of any such obligations or assets so purchased.

No bank officer, director, employee, etc., to purchase or be interested in purchase of bank's obligations or assets under face value. Exception.

Penalty.

[Note by Publishers, re Section 41, amended 1917:

Under the law as it stood previous to 1917, even though a bank asset might not be worth, and might well be known not to be worth, more than 50 per cent.

of, or less than, its value appearing on its face, nevertheless it could not be transferred to or purchased by anybody interested as a stockholder, for less than its full worth. The amendment has made such a transaction possible, upon obtaining consent of the directors as indicated.]

Section 42. No officer, director, agent or other employee of any bank, shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of the assets of said bank for a less sum than the current market value thereof. Every person violating any provision of this section, shall for each offense, forfeit to the people of the state, twice the nominal amount of any such assets so purchased.

No bank to deposit funds in other bank except Federal Reserve bank, unless as specified.

Section 43. No bank shall deposit any of its funds in any other bank, except a federal reserve bank, unless such other bank has been nominated as a depositary for its funds by the vote of a majority of the directors or trustees of the bank making the deposit, and such other bank has been designated by the superintendent of banks as such depositary.

The superintendent of banks may in his discretion revoke such a designation.

[Note by Publishers, re Section 43, amended 1919:

The only change in the section as it stood previous to the amendment is the insertion of the phrase, "excepting a federal reserve bank." This amendment is a minor one, designed simply to except a Federal Reserve bank from the necessity of being either nominated or designated by the Superintendent of Banks as a reserve depositary for funds of any bank in the State system. It is assumed that the Federal Reserve bank of the district in which any of the banks of California may be located does not require such a designation as is demanded for other banking institutions.]

Limitation and restrictions upon loan secured by stock of another bank.

Section 44. No bank shall hereafter make a loan secured by the stock of another bank, if by making such loan the total stock of such other bank held by such loaning bank as collateral will exceed in the aggregate twenty-five per centum of the capital stock of such other bank; provided, that no loan upon the capital stock of any bank shall be made unless such bank has been in existence at least two years and has earned and paid a dividend upon its capital stock; and provided, further, that no bank may loan more than five per centum of its assets upon the capital stock of any corporation whatsoever as collateral security.

Section 45. Interest unpaid, although due or accrued, on debts owing to any bank, shall not be included in calculation of its profits previous to a dividend; nor shall any bank, except with the previous written consent of the superintendent of banks, enter or at any time carry on its books any of its assets at a valuation exceeding its actual cost to such bank.

Unpaid interest not deemed profits previous to dividend.

No valuation of assets above cost without consent of of Supt.

[Publisher's Note: This section as it now stands was amended in 1917, by the addition, after the first clause, ending with the word "dividend" of the clause forbidding book valuation of assets exceeding actual cost, without consent of the Superintendent of Banks. Under the law as it stood prior to 1917, the writing up of any of the assets of a bank was legally impossible. Sometimes it occurs that there is a very material increase in the value of certain assets, and sometimes it is desirable, and it should be permitted, that assets be written up; but it is not desirable, of course, that that could be done under any and all circumstances. This amendment was designed to permit such writing up whenever it is advisable that it should be done, and of course, will prohibit the process when it should not be allowed.]

Section 46. No commercial bank shall invest or loan more than five per centum of its assets in any one bond issue, except bonds of the United States, of the State of California, of the counties, cities and counties, cities or school districts of this state, or bonds of any irrigation district such as are legal for investment by savings banks.

No bank to loan or invest more than 5% of assets in any one bond issue, except governmental bonds, as specified.

Section 47. No commercial bank shall, except for the purpose of facilitating the sale of property owned by the bank, make any loan on the security of real estate, unless it is a first lien and is either

No commercial bank, except to facilitate sale of property owned to make loan on real estate, unless first lien and for specified period and per centum of value.

(1) Made for a period of time not exceeding six months and upon security worth at least fifteen per centum more than the amount loaned; or

(2) Made for a period of time exceeding six months and not exceeding ten years and does not exceed sixty per centum of the market value of the real estate taken as security.

No commercial bank shall loan in the aggregate more than thirty-five per centum of its assets on real estate loans of the character specified in subdivision two of this section. These provisions, however, shall not prevent any bank from taking another and immediately subse-

Subsequent mortgages and deeds of trust.

quent mortgage or deed of trust thereon when it already holds a first mortgage or deed of trust on such real estate, nor from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when, in the judgment of the directors of such bank, such subsequent liens are necessary further to secure the payment of any debts and save such bank from loss.

National bank other than Federal Reserve bank receiving State bank deposits, must, at request of Supt., submit to examination.

Section 48. Any national bank, in this state, other than a federal reserve bank, receiving the deposits of any bank organized and conducting business under this act, must, at the request of the superintendent of banks, submit to an examination by him, or his duly appointed examiners, should the superintendent of banks in his discretion deem it necessary or desirable that such examination be made; and the expense of such examination shall be paid by such depositary bank; and if any such bank shall refuse to permit such examination to be made by, or under the direction of, the superintendent of banks, then the superintendent of banks shall notify in writing every bank depositing its funds with such bank, to withdraw its deposits therefrom, and all such banks shall comply with such order.

Effect of refusal.

Natl. Banking Ass'n with principal place of business in State, authorized to act in fiduciary capacities, as provided by Fed. Reserve Act.

Section 48a. Any national banking association, whose principal place of business is in this state, is hereby authorized to act in fiduciary capacities in all respects as provided by the acts of congress, approved December 23, 1913, and amendments thereof, commonly known as the federal reserve act, and all acts herein provided to be performed by the state treasurer, the superintendent of banks or other public officials for or in respect of trust companies, shall be performed for such national banking association equally with trust companies. Every such national banking association which shall be author-

Every such Ass'n, authorized in Sec., may act in fiduciary capacities.

ized to exercise said fiduciary powers, and which has qualified by making the deposit of securities required by the law of this state, may act, or may be appointed by any court to act in any such capacity in like manner as an individual. The superintendent of banks shall inspect and examine the books, records and assets of the trust department of each national banking association which conducts a trust department in this state to the same extent that the said superintendent of banks exercises visitorial supervision over trust companies organized and existing under the laws of this state.

Supt. shall examine books, assets, etc., of trust dept. of each such Ass'n.

The charge by the state banking department for all services rendered to any national banking association by the superintendent of banks, in accordance with the provisions of this section, shall be paid by the national banking association requiring such services. Such charge for services shall be determined by the superintendent of banks, and shall be no higher than the charge for a similar service to trust companies organized under the laws of this state.

Charges and cost for services rendered by State Banking Dept.

The cost of all regular and ordinary service shall be calculated upon the amount of the securities deposited by each such national bank with the treasurer of the state for the due execution and faithful performance of its court and private trusts at the same ratio as is applied to the capital and surplus of trust companies organized under the laws of this state in determining the cost to them for such services.

The cost of all special and extraordinary services shall be the same as that provided for in section one hundred twenty-four of this act.

[Note by Publishers, re Section 48a, a new section:]

This is an enabling section putting into legal operation in California the provisions of the Phelan Act recently enacted by the Congress of the United States, which gives to National banking associations the right to conduct a trust department in connection with their commercial banking business. The federal law places upon the State in which the National association desires to function in that regard the burden of making operative the provisions of the national statute. Hence the provisions of the above Section 48a, that the Superintendent of Banks shall have authority to perform for National associations which are authorized to

conduct a trust department in this State such service as is required by the Bank Act in the case of a State trust company; the expense of this service to be determined by the Superintendent of Banks and to be paid by the National association receiving such service.

Outline of necessary procedure for any National Bank formed in this State contemplating the establishment of a trust department, under the terms of this Section is given in a letter written by the State Banking Department and contained in the Appendix of this volume.

Holding out as savings bank by commercial bank, etc., unlawful.

Section 49. It shall not be lawful for any commercial bank, individual, trust company, association, firm, stock company, copartnership or corporation, to advertise or put forth a sign as a savings bank, or either directly or indirectly or in any way to solicit or receive deposits or to transact business in the way or manner of a savings bank, or to advertise that he or it is receiving or accepting savings, or in any way which might lead the public to believe that such deposits are received or invested under the same conditions or in the same manner as deposits in savings banks, except in the case of savings banks or banks having savings departments, subject to the provisions of this act. Any commercial bank, individual, trust company, association, firm, stock company, copartnership or corporation, violating any provision of this section shall forfeit to this state one hundred dollars a day for every day during which such violation continues.

Penalty.

Every bank or branch to post last certificate from Supt.

Section 50. Every bank shall post in a conspicuous place in its banking room or branch office the last certificate obtained from the superintendent of banks under the provisions of either section nine or one hundred twenty-seven of this act.

Court may, under conditions specified, authorize executor, administrator, guardian, receiver, trustee, etc., to deposit money in State bank.

Section 51. Any court having appointed and having jurisdiction of any executor, administrator, guardian, assignee, receiver, depository or trustee, upon the application of such executor, administrator, guardian, assignee, receiver, depository or trustee, or upon the application of any person having an interest in the estate administered upon by such officer or trustee, after notice to other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer

or trustee to deposit any money then in his hands as such officer or trustee or which may thereafter come into his hands, and until the further order of the court, in any bank organized under the laws of the State of California; and upon such deposit being made, the officer or trustee so depositing the same shall thereafter and while such moneys remain on deposit in such bank, be relieved and discharged from all liability and responsibility therefor, and the bond required of such officer or trustee given upon his appointment shall be thereupon by said court reduced to such an amount as the court may deem reasonable; such deposit shall be repaid only upon the orders of said court, and shall be a preferred claim against such bank and be paid in full before any other depositor of such bank shall have been paid.

Such deposit payable only on court order.

Section 52. Whenever a check drawn on any bank is certified by any officer or employee of such bank, the amount thereof shall be immediately charged against the account of the person, firm or corporation drawing the same.

Certified check must be immediately charged.

It shall be unlawful for any officer or employee of any bank to certify any check drawn upon such bank unless the person, firm or corporation drawing the check has on deposit with the bank at the time such check is certified, an amount of money subject to the payment of such check, equal to the amount specified in such check.

Any officer or employee of any bank who shall willfully violate the provisions of this section, or shall resort to any device, or receive any fictitious obligations, directly or indirectly, in order to evade the provisions hereof, or who shall certify checks before the amount thereof shall have been regularly entered to the credit of the drawer, shall be guilty of a felony.

Bank officer or employee violating Sec. guilty of felony.

Section 53. The capital stock of any bank having a capital stock shall have a par value of one hundred dol-

Par value of capital stock \$100 and paid up value to be on certificate.

lars per share, and the paid-up value shall be endorsed upon the face of each certificate issued, which paid-up value shall be the same on all certificates issued. No bank shall have preferred stock; provided, however, that no bank whose capital stock, on January 1, 1915, failed to comply with any of the requirements of this section, shall be compelled to change its capital stock in compliance herewith.

Proviso as to non-compliance prior to Jan. 1, 1915.

Real estate acquired by bank and not necessary in its business, must be sold or exchanged, as specified.

Section 54. All real estate purchased by any bank at sales under pledges, mortgages or deeds of trust for its benefit for money loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon and all other real estate owned or held by it, which is not necessary for carrying on its business, must be sold or exchanged for other real estate by such bank within five years after title thereto shall have vested in it by purchase or otherwise; provided, however, that no exchange of such real estate for other real estate shall be made unless and until written consent thereto shall first be given by the superintendent of banks; and provided, further, that any real estate so taken in exchange may be held for such period of time as the superintendent of banks may fix but not to exceed five years. Parcels of such real estate not sold or exchanged within said time may be purchased by any person wanting the same upon the conditions and proceedings following: The intending purchaser may file a petition in the superior court in and for the county wherein said real estate or any portion thereof is situated; upon the filing of such petition a citation shall be issued out of said court directed to the bank owning such real estate requiring such bank to show cause on a day certain which shall be not earlier than ten days after the service of such citation, why commissioners should not be appointed by said court for the purpose of appraising the value of the real estate described in the petition and of selling the same at public auction under the provisions of this section. If there

Parcels not sold or exchanged within said time purchasable by any person; procedure outlined.

shall be any liens or encumbrances of record against such real estate the person or persons holding such liens or encumbrances shall likewise be cited and the court shall in its final decree distribute the proceeds of such sale, if a sale thereof shall be made, according to the equities of the parties. If it shall appear at the hearing of such petition that the real estate therein sought to be purchased is held by such bank in violation of the provisions of this section or of the constitution of this state, the court shall appoint three commissioners to appraise the value thereof and sell the same at public auction at the county seat of the county wherein said real estate or any part thereof is located. Notice of which said sale shall be given to the bank owning said real estate and to any other persons interested therein as shown by the records of such county at least ten days before the date of such sale and shall be published once a week for three successive weeks in some newspaper published in the county where such real estate or any part thereof may be located, or if no newspaper shall be published in such county then in a newspaper published in some neighboring county. Such notice shall state the time and place of such sale and shall describe the real estate to be sold with common certainty and state the value thereof as fixed by the appraisal of such commissioners and state that no bid less than such appraised value will be received therefor. No sale shall be made for an amount less than the appraised value of such real estate fixed by said commissioners, and in the event that no bid is received at such sale at least equal to said appraised value of said real estate no intending purchaser can institute the proceedings provided for in this section within one year thereafter. In case of any sale made under the provisions of this section and of the refusal of any bank owning such real estate or of any lienholder or encumbrancer to execute the conveyances or releases necessary or proper to vest the title of such bank, lienholder or en-

Court to appoint commissioners to appraise and sell real estate held by bank in violation of law.

Procedure governing sale.

If no bid equals appraised value, proceedings not renewable within one year.

Fees and costs; how
limited and borne.

cumbrancer in the purchaser thereof the court shall have power in such proceedings to direct said commissioners to execute such deeds, conveyances or releases upon the payment to them of the purchase price therefor. The fees of such commissioners and cost of sale shall be fixed by the court, upon making such appointment, but the entire expense thereof shall not exceed one hundred dollars. The cost of any such proceedings shall be borne by the intending purchaser if no sale shall be made, but if a sale shall be made the costs of such proceedings shall be borne by the purchaser of the property and the person who filed the petition and advanced the costs of such proceedings shall be reimbursed in case he shall not become such purchaser. All sales hereunder shall be returned to the court having jurisdiction of the matter in the same manner as in the case of sales, by commissioners, of real estate on foreclosure of mortgages. Nothing in this section contained shall be deemed to affect the power of the superintendent of banks to require the writing down of the value of real estate held by any bank, at any time, when such writing down shall be proper.

Power of Supt. to
write down bank
realty not affected
by Sec.

[Note by Publishers, re Section 54, amended 1917:

Under this section, as it formerly stood, banks were not permitted to exchange real estate. They were authorized, of course, to sell any real estate of which they might have become possessed, but were not allowed, even where it might appear decidedly advantageous to do so, to transfer any real estate and receive in lieu thereof other real estate. This amendment makes such exchange of real estate possible.]

Receiving deposits,
etc., not creation of
debt within mean-
ing of Civil Code.

Section 55. Receiving deposits, issuing certificates of deposit, checks and bills of exchange, and the like, in the transaction of the ordinary business of a bank, must not be construed to be the creation of debt within the meaning of the phrase "create debt" in section three hundred nine of the Civil Code, nor of indebtedness within the meaning of the phrase "the capital stock can not be diminished to an amount less than the indebtedness of the corporation" in section three hundred fifty-nine of the Civil Code, except that no bank shall reduce its capital stock to an amount less than is required by this act to be

Restriction on re-
duction of capital
stock.

maintained by such bank, or less than any indebtedness of such bank other than such deposits.

The terms "real estate," or "real property," or "personal property," when used in this act shall have the meaning defined in, and shall be construed in accordance with the provisions of Title I of Part I of division second of the Civil Code.

"Real estate,"
"real property,"
"personal property,"
—how defined.

Section 56. Any bank is hereby authorized and empowered to become a member of a federal reserve bank.

Any bank may become member of Federal Reserve bank.

Nothing in this act shall prohibit any such bank from becoming a member of a federal reserve bank, in the manner provided in the federal reserve act, nor from investing any part of its capital or surplus or reserve fund in the capital stock of such federal reserve bank, in accordance with the terms and provisions of such federal reserve act; provided, that such investment shall in no case exceed the minimum amount required to join or associate itself with or maintain membership in such federal reserve bank; provided, also, that such investment may be carried in either the commercial, savings, or trust department, or may be apportioned to any two or all three of such departments of any departmental state bank member.

Member bank may invest part of capital, surplus, or reserve fund in capital stock of Federal Reserve bank, as specified.

Any bank joining or associating itself with such federal reserve bank shall have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member bank in any such federal reserve bank, by the provisions of the federal reserve act and the regulations of the federal reserve board. Such member bank and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by the bank act and by any other law of this state.

All powers, not in conflict with State laws, conferred upon member bank.

Any bank which shall have become a member of a federal reserve bank shall be subject to the examina-

Member bank subject to federal examinations.

Supt. may accept
such examination in
lieu of one under
Act; may furnish to
federal bank infor-
mation.

tions required under the terms of the federal reserve act, and the superintendent of banks may, in his discretion, accept such examination in lieu of the examination required under the provisions of this act, and he, his agents and employees, may furnish to the federal reserve board, the federal reserve bank, or to examiners duly appointed by the federal reserve board or the federal reserve bank, copies of all examinations made, and may disclose to such federal reserve board, federal reserve bank, or examiner, any information with reference to the condition of affairs of state bank members.

[Note by Publishers, re Section 56, amended 1919:

Section 56 as amended makes more explicit the statement of conditions under which banks in the State system may enter the Federal system as members of a Federal Reserve bank. Such State banks remain, as now, fully within the government of State law, but they are permitted to contribute the capital required for membership in the Federal Reserve Bank, from any of their three departments, commercial, savings or trust. The Superintendent of Banks is by the amendment permitted to supply to the Federal Reserve Board of the Federal Reserve Bank, or members appointed by either, copies of all examinations made by the Superintendent of Banks, and he may disclose to the authorities named any information with reference to the condition of affairs of State-bank members. He may also accept the examination required by the terms of the Federal Reserve bank in lieu of the examination required under the provisions of the Bank Act.

Section 56, it will be noted, is one of a series of sections amended at the 1919 Session of the Legislature, which have in view the bringing about of a closer relationship between our State banks and the banks of the Federal system. The other sections of the series are Sections 20 and 68. (See also in this connection Section 67, providing that a State-member bank may exercise the principal privilege accorded to a member of a Federal Reserve bank—namely, the privilege of rediscount.) As regards the provisions of these sections, reference is made thereto and to the notes accompanying the same.

Briefly, the series of amendments referred to provide for the entrance of State banks into the Federal Reserve system as member banks, though still within the jurisdiction and control of the State banking Department, for the exercise of all rights and privileges enjoyed by member banks in the Federal Reserve system, and for the general acceptance of the Federal Reserve system and its practical application as expressed in the form of securities in which a member bank may invest.

It has been the recent policy of the California State Banking Department to establish cordial working relations between that Department and the Federal Reserve Bank, on the one hand, and the National Bank authorities on the other hand, to the end that there may be cordial co-operation, and that the information of each shall be common to all. In carrying out this policy, the Department has met cordial response from both sources, and an additional element of safety has thus been created for the situation.]

Any bank may con-
vert into Natl.
Banking Ass'n,
under federal or
state law.

Section 56a. Nothing in this act shall prevent or prohibit any bank from converting into a national banking association under the provisions of section five thousand one hundred fifty-four of the United States revised statutes, or section eight of the federal reserve act, or any other federal or state law; provided, however, that no

savings bank and no departmental bank having a savings department, organized and existing under the laws of the State of California, shall convert into a national banking association except upon the following conditions:

1. Coincident with its application to the comptroller of the currency, any such savings or departmental bank shall file with the superintendent of banks formal notice of intention to convert into a national banking association.

Condition for conversion by State savings bank or bank having savings department.

2. Prior to conversion, any such savings or departmental bank shall place in the hands of the superintendent of banks,

(a) A constructive notice for newspaper advertisement, directed to its savings depositors, of the fact of conversion;

(b) Actual notice addressed to each and every savings depositor, at his or her last known address, enclosed in stamped and addressed envelopes ready for mailing, this notice to be as follows:

"You are hereby notified that the undersigned, formerly the....., now the....., has converted from a banking corporation existing under the laws of California into a national banking association; and has therefore ceased to be under the jurisdiction and direction of the California state banking department and the bank act of California, and is now under the jurisdiction and control of the federal reserve act and the national act." No other matter may be enclosed with this notice unless by permission of the superintendent of banks.

3. Upon conversion said bank shall file with the superintendent of banks a copy of its authorization as a national banking association, certified by the comptroller of the currency; and shall surrender to the superintendent of banks its license as a state banking corporation.

Upon conversion bank to file with Supt. certified copy of its authorization and surrender State license.

Immediately following conversion, Supt. shall publish notice of fact of conversion, as specified.

4. Immediately following the conversion of a state bank, the superintendent of banks shall cause the publication of the notice provided in subdivision (a) of paragraph two of this section; same to be at least once a week for four successive weeks in a newspaper of general circulation, printed and published in every town where said bank transacts its business and if there be no such paper in any such town or towns, then in the county where such bank transacts its business, and the superintendent of banks shall cause to be mailed the notices provided in subdivision (b) of paragraph two of this section. The advertisement shall be at the expense of the converting bank, prepaid to the department.

[Note by Publisher to Section 56a, a new section enacted in 1919: This section provides for one of the important changes in the Bank Act. It is introduced to insure the right of every bank in the State system to convert into a National association if it so desires but such conversion in the case of a savings bank or of a departmental bank having a savings department can be accomplished only under such conditions as will advise every depositor in the savings bank or in the bank having a savings department of the character of the change which takes place by conversion. This section provides that, coincident with the application of a State bank to convert, notice of such intention shall be given to the Superintendent of Banks. Before such conversion is effected such savings bank or departmental bank having a savings department shall place in the hands of the Superintendent of Banks a constructive notice, for newspaper publication, directed to its savings depositors, of the fact of conversion, and, (an actual notice,) addressed to each and every stockholder at his or her last known address, enclosed in stamped and addressed envelope ready for mailing, a written notice which advises said depositor that the bank has ceased to be under the jurisdiction and direction of the California State Banking Department and is now under the jurisdiction and control of the Federal Reserve Act and the National Bank Act. Both of these notices are to be made effective after the conversion; one by publication and the other by mailing by the Superintendent of Banks. Such a provision is made possible by an amendment to Section 5154 of the Revised Statutes of the United States, which in its new expression becomes Section 8 of the Federal Reserve Act, and provides that the conversion of a State bank into a National association shall not be in contravention of the State law. Prior to this amendment to the Federal statute, any State bank, without any authority whatever from the State government, could convert, and its savings deposits would be carried by operation of law into a National association. Section 56a in effect gives to every savings depositor in the State system the right of determining whether or not he shall remain as a depositor under State jurisdiction or become a depositor under national law.]

Lien of tax assessment or bond levied or issued by State or subdivision thereof, if same or installment thereof not delinquent, not deemed prior encumbrance as regards requirement of first-lien real-estate security.

Section 57. Whenever in this act it is required that loans or investments shall be secured by a first lien on real estate, the lien of any tax, assessment or bond levied or issued by this state or by any county, city and county, city, town, municipality, school district, reclamation district, irrigation district or any other political or governmental subdivision of this state (not including bonds given pursuant to any law authorizing the same by any

person or corporation in lieu of payment of any tax or assessment levied against any particular real property) and the lien of any assessment levied to pay such bonds shall not be deemed to be a prior encumbrance or lien on such real property unless an installment or call of such tax, assessment or bond shall be due and delinquent; and any bonds given pursuant to any law authorizing the same by any person or corporation in lieu of payment of any tax or assessment levied against any particular real property and any lien given to secure the payment of assessments or subscriptions to meet the requirements of any law of the United States in respect to any irrigation project of the United States in this state which may be levied, made or received by any corporation or association formed to carry out the objects and requirements of any such law of the United States shall not be deemed to be a prior encumbrance or lien on such real property if the lien given to secure such assessments and subscriptions taken with the loan or investment so secured shall amount to not more than sixty per centum of the market value of the land securing the same.

Bonds given pursuant to law, by any person or corporation, in lieu of payment of tax or assessment upon real property, and lien securing payment of assessments or subscriptions in respect to U. S. irrigation project in this State, which may be levied, under law of U. S.—when not deemed prior encumbrance or lien.

Section 58. Any bank possessing a capital and surplus of one million dollars or more may file application with the superintendent of banks for permission to exercise, upon such conditions and under such regulations as he may prescribe, either or both of the following powers:

Bank with \$1,000,000 or more capital and surplus may apply to Supt. to exercise powers as follows:

First—To establish branches in foreign countries or in dependencies or insular possessions of the United States for the furtherance of the foreign commerce of this state and of the United States.

1. To establish foreign branches, and/or

Second—To invest an amount not exceeding in the aggregate ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the State of California, and principally engaged in international or foreign banking or banking in a dependency or insular

2. To invest in stock of banks or corporations under State law engaged in international or foreign banking, as specified.

possession of the United States either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Supt. may approve or reject application in whole or part.

Such application shall specify the name and capital of the bank filing it, the powers applied for and the place or places where the banking operations proposed are to be carried on. The superintendent of banks shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

Information re condition of foreign branches, etc., to be furnished Supt. on demand.

Every bank operating foreign branches shall be required to furnish information concerning the condition of such branches to the superintendent of banks upon demand, and every bank investing in the capital stock of banks or corporations described under subparagraph two of the first paragraph of this section shall be required to furnish information concerning the condition of such banks or corporations to the superintendent of banks upon demand, and the superintendent of banks may order special examinations of the said branches, banks or corporations at such time or times as he may deem best. The cost of such special examinations shall be paid by said branches, banks or corporations.

If regulations of Supt. not complied with, he may institute investigation.

Before any bank shall be permitted to purchase stock in any such corporation the said corporation shall enter into an agreement or undertaking with the superintendent of banks to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said superintendent of banks may prescribe for the place or places wherein such business is to be conducted. If at any time the superintendent of banks shall ascertain that the regulations by him are not being

complied with, said superintendent of banks shall be authorized and shall have power to institute an investigation of the matter and to send for persons and papers, subpoena witnesses and administer oaths in order to satisfy himself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the bank or banks which may be stockholders therein, to comply with the regulations laid down by the said superintendent of banks, such banks may be required to dispose of stockholdings in the said corporation upon thirty days' notice, and in the event of their noncompliance with such order the superintendent of banks may institute proceedings for forfeiture of license.

Every such bank shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accruing to each branch as a separate item.

Such bank to conduct accounts of each foreign branch independently.

[Note by Publishers to Section 58, a new section enacted in 1919:

Of the two principal problems that pressed for consideration in the redrafting of the Bank Act, one was the problem of the Federal Reserve bank as it applied to the State banks of California. The other problem was the financial relations of the California banks with the world at large, and especially as they apply to American commercial expansion in the Orient and South America.

Section 58, a new section, is, we believe, the first comprehensive handling of this situation. Briefly, it provides that any California bank with a capital and surplus of \$1,000,000 or more may establish foreign branches or branches in the dependencies or insular possessions of the United States for the furtherance of the foreign commerce of this State and of the United States. Further, it may invest an amount not exceeding in the aggregate 10 per cent. of its paid-in capital and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the State of California, principally engaged in the international or foreign banking business in a dependency or insular possession of the United States. Every bank operating foreign branches within the limitations of this amendment is required to furnish information concerning the condition of such branches to the Superintendent of Banks upon demand, and shall be subject to the examination and jurisdiction of the State Banking Department.

The general purpose and effect of this new section are apparent: It permits commercially organized corporations to have branches in any part of the world. It will permit such corporations to own stock in foreign banks and it will grant to them a privilege in foreign and domestic exchange that would be utterly beyond their reach without the introduction of this enabling statute.]

ARTICLE II.

SAVINGS BANKS.

Capital required of savings banks.

Section 60. Every savings bank hereafter organized must have paid up in cash a capital stock not less than

Population not over 5,000—\$25,000.

(a) Twenty-five thousand dollars if its principal place of business is located in any locality the population of which does not exceed five thousand persons;

If 5,000 to 25,000 population—\$50,000.

(b) Fifty thousand dollars if its principal place of business is located in any city the population of which is more than five thousand persons, but does not exceed twenty-five thousand persons;

If 25,000 to 100,000 population—\$100,000.

(c) One hundred thousand dollars if its principal place of business is located in any city the population of which is more than twenty-five thousand persons but does not exceed one hundred thousand persons;

If 100,000 to 200,000 population—\$200,000.

(d) Two hundred thousand dollars if its principal place of business is located in any city the population of which is more than one hundred thousand persons but does not exceed two hundred thousand persons;

If more than 200,000 population—\$300,000.

(e) Three hundred thousand dollars if its principal place of business is located in any city the population of which is more than two hundred thousand persons.

Reserve fund of savings bank without capital stock.

Excepting that any savings bank organized without capital stock must have a reserve fund of at least one million dollars.

No certificate to be issued until such capital stock or reserve fund is paid in.

Until the capital stock or reserve fund hereinbefore required shall be actually paid in, the superintendent of banks shall refuse to issue the certificate required by this act. The foregoing classification shall not apply to any savings bank already in existence which has received its certificate to do a banking business from the superintendent of banks; nor to any bank the location of which

Classification not to apply to certain banks.

shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception; provided, that nothing herein shall be construed to affect the provisions of section nineteen of this act relative to the proportion of capital and surplus to deposits or of section twenty-three of this act relative to the capital stock required of banks doing a departmental business. The provisions of section twenty-three of this act, as to population, shall apply to any bank organized under the provisions of this section.

BONDS WHICH ARE
LEGAL INVEST-
MENTS.

Nothing herein af-
fects provisions of
Sec. 19 or of Sec.
23 of Act.

Section 61. Any savings bank may purchase, hold and convey real or personal property as follows:

Property which
savings bank may
purchase, hold and
convey.

1. The lot and building in which the business of the bank is carried on; furniture and fixtures, vaults and safe deposit vaults and boxes necessary or proper to carry on its banking business; such lot and building, furniture and fixtures, vaults and safe deposit vaults and boxes shall not, in the aggregate, be carried on the books of such bank as an asset to an amount exceeding its paid-up capital and surplus; and hereafter, the authority of a two-thirds vote of all of the directors shall be necessary to authorize the purchase of such lot and building, or the construction of such building.

Bank premises, fur-
niture, fixtures, etc.,
two-thirds vote of
directors necessary
for purchase or
construction.

2. Such as may have been mortgaged, pledged or conveyed to it in trust for its benefit in good faith, for

Property mortgaged,
pledged or conveyed
as security for
loans.

BONDS WHICH ARE LEGAL INVESTMENTS—Continued. money loaned in pursuance of the regular business of the corporation.

Property purchased at sales under pledge, mortgage, etc. 3. Such as may have been purchased at any sales under pledge, mortgage or deed of trust made for its benefit for money so loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon.

What personal property savings bank may purchase, own or sell. No savings bank shall purchase, own, or sell personal property, except such as may be requisite for its immediate accommodation for the convenient transaction of its business, notes or bonds secured by trust deeds or mortgages on real estate, bonds, securities or evidences of indebtedness, public or private, gold or silver bullion and United States mint certificates of ascertained value, and evidences of debt issued by the United States.

What bonds, securities, etc., savings banks may purchase, own or sell. No savings bank shall purchase, own, hold or convey bonds, securities or evidences of indebtedness, public or private, except as follows:

Bonds or interest-bearing notes or obligations of U. S., etc. (a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or those issued under authority of the United States;

Bonds, etc., of England, France, Canada, etc., when approved by Supt. (aa) Bonds or interest-bearing notes or obligations of England or the United Kingdom of Great Britain and Ireland, or France, or the Dominion of Canada, or those for which the faith and credit of any one or more of said countries are pledged for the payment of principal and interest; or bonds or interest-bearing notes or obligations of any other foreign country or government, which bonds or interest-bearing notes or obligations shall have first been approved by the superintendent of banks in writing;

[Publishers' Note 1, Section 61, amended 1919:

The above clause "(aa)" was added in 1919.]

Bonds of this State or its subdivisions. (b) Bonds of this state, or those for which the faith and credit of the State of California are pledged for the

payment of principal and interest, or those of any county, city and county, city or school district of this state;

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

(c) Bonds or stocks or notes of any state in the United States that has not, within five years previous to making such investment by such bank, defaulted in the payment of any part of either principal or interest, or those of any county, city and county, city or town, in any state of the United States other than the State of California, issued under authority of any law of such state, which county, city and county, city or town, had, as shown by the federal or state census next preceding such investment, a population of more than twenty thousand inhabitants; provided, however, that the entire bonded indebtedness of such county, city and county, city or town, including such issue of bonds or stocks or notes, does not exceed fifteen per centum of the value of the taxable property therein as shown by its last equalized assessment roll; and provided, further, that such county, city and county, city or town, or the state in which it is located has not defaulted in payment of any part of either principal or interest due upon any legally authorized bond or stock or note issue within five years next preceding such investment;

Bonds, stocks, etc., of any State in U. S. or any county, city and county, city or town, in any foreign State of U. S., of more than 20,000 population, with bonded indebtedness within specified limit, which bonds, etc., have not defaulted, etc.

(d) Bonds of any district organized under the laws of the State of California which are required to be and are investigated and approved by a commission now or hereafter authorized by a law of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks;

Bonds of any district organized under laws of State approved by commission under State law.

(e) Bonds of any district organized under the laws of the State of California not otherwise provided for in this section; or those of any mutual water company organized under the laws of this state and operating wholly within this state; provided, that all bonds specified in this paragraph shall first be certified by the superintendent-

Bonds of any district not otherwise provided for in Sec., of any mutual water company, etc., under State law.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

Bonds specified in
this par. to be first
certified by Supt.,
after investigation,
etc.

ent of banks after an investigation in manner and form as is provided for by section sixty-one-a of this act; and provided, further, that no bonds of any mutual water company shall be certified by the superintendent of banks unless the company issuing said bonds shall have been in continuous operation for a period of five years next preceding the application for said certificate and shall have served not less than seventy-five per centum of the lands entitled to service by said mutual water company for a period of not less than three years next preceding the application for said certificate;

Bonds of intrastate
railroad corporation
conforming to speci-
fied requirements.

(f) (1) Bonds of any railroad corporation incorporated under the laws of the State of California and operating exclusively therein; provided, said corporation has had net earnings for the period herein fixed amounting to at least one and one-fourth times the interest on all its outstanding mortgage indebtedness; or,

[Publishers' Note 2. Section 61, amended 1919:

The phrase "the period herein fixed" is defined in the second paragraph following paragraph "(k)" of this section.]

Bonds of R. R.
corporation under
law of any State in
U. S., with mileage
and net earnings as
specified.

(2) Bonds of any railroad corporation incorporated under the laws of any state in the United States, operating at least five hundred miles of standard gauge track exclusive of sidings; provided, said corporation has had net earnings for the period herein fixed amounting to at least one and one-half times the interest on all its outstanding mortgage indebtedness; or,

Bonds of any R. R.
corporation payment
of which guaranteed
by R. R. corporation,
meeting specified re-
quirements as to net
earnings.

(3) Bonds of any railroad corporation, the payment of which has been guaranteed, both as to principal and interest, by a railroad corporation meeting the requirements of either subdivision (1) or (2) of paragraph (f) of this section; provided, that such guaranteeing corporation has had for the period herein fixed net earnings amounting to at least one and one-half times the interest on all its outstanding mortgage indebtedness and, in addition thereto, sufficient, taken with the earnings of all corporations whose bonds it has guaranteed, to qualify

as investments for savings banks, as in this section provided, all such guaranteed bonds; provided, that the excess of income of any corporation whose bonds have been so guaranteed, over the amount required by this section for such corporation, shall not apply to or be included in determining the income so required; (provided, further, that the guarantee of such bonds hereafter guaranteed must establish a lien upon all the operating properties of the guaranteeing corporation, which lien must take precedence over any subsequent issues of mortgage obligations by said guaranteeing corporation).

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

[Publishers' Note 3, Section 61, amended 1919:

The last proviso, enclosed in brackets, at the end of subdivision "(3)" of paragraph "(f)" was added in 1919.]

In determining the income of any corporation specified in paragraph (f) of subdivision three of this section, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation or corporations, the entire business and income producing property of which the corporation issuing such bonds has wholly acquired.

Effect of consolida-
tion on determination
of income.

All bonds authorized for investment by paragraph (f) of subdivision three of this section must be secured by a mortgage or deed of trust which is, at the time of making such investment, either

Nature of security
required for bonds
authorized by par.
(f) of subdiv. 3.

I. A closed first mortgage or deed of trust; or,

Closed first mortgage
or deed of trust, or

II. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or,

First mortgage or
deed of trust with
restrictions on issu-
ing further bonds, as
specified; or

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

Refunding mtge. or
deed of trust, pro-
viding for retirement
of prior-lien mtge.
debts and restricting
issuance of further
bonds, as specified;
or

III. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation, and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or,

Underlying or di-
visional, closed mtge.
or deed of trust prop-
erty forming part of
the operating system
of corporation then
owning said property,
etc.

IV. An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, maintenance charges, operating expenses, taxes, and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust, or, if such income, maintenance charges or operating expenses can not be definitely ascertained, on the proper proportionate share of such property in the general income, maintenance charges, operating expenses, and taxes of the corporation then owning such property and on the mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust; provided, however, that if the payment of the bonds secured by such underlying or divisional closed mortgage or deed of trust shall be guaranteed or assumed by the corporation then owning the property securing the same, such bonds shall be legal investments for savings banks, if the net income of such corporation from all sources shall equal the amount herein required, notwithstanding any insufficiency of the income derived from the property covered by such underlying or divisional

closed mortgage or deed of trust to meet the requirements of this section.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

No savings bank shall purchase the bonds of any railroad corporation deriving less than twenty per centum of its gross receipts from passenger revenues.

Restrictions on purchase of railroad bonds.

The term, "railroad corporation," when used in paragraph (f) of subdivision three of this section, shall have the meaning defined in the "public utilities act."

"Railroad corporation" defined.

(g) Bonds of any street railroad corporation; or of any gas; water; pipe line; light; power; light and power; gas, light and power; electrical; telephone; telegraph; or telephone and telegraph corporation or of any other "public utility" incorporated under the laws of the State of California; and

Bonds of any street railroad corporation, etc., or other "public utility" of this State meeting designated requirements:—

(1) Operating exclusively in the State of California, provided said corporation has had, for the period herein fixed, net earnings amounting to one and one-half times the interest on all its outstanding mortgage indebtedness; or,

Operating exclusively in State, with net earnings, as specified;

(2) Operating its property in part within the State of California, provided said corporation has had, for each of its two fiscal years next preceding such investment, net earnings amounting to one and one-half times the interest on all its outstanding mortgage indebtedness; or,

Operating property in part in State, with specified earnings;

(3) The payment of which is guaranteed, both as to principal and interest, by a public utility corporation meeting the requirements of either subdivision (1) or (2) of paragraph (g) of this section, provided that such guaranteeing corporation has had for the period required in the respective subdivisions of this paragraph relating thereto, net earnings amounting to at least one and one-half times the interest on all of said guaranteeing corporation's outstanding mortgage indebtedness, and, in addition thereto, sufficient, taken with the earnings of

The payment of which is guaranteed by public utility meeting specified requirements and establishing lien as indicated.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

all corporations whose bonds it has guaranteed, to qualify as investments for savings banks, as in this section provided, all such guaranteed bonds; provided, that the excess of income of any corporation whose bonds have been so guaranteed, over the amount required by this section for such corporation, shall not apply to or be included in determining the income so required; (provided, further, that the guarantee of such bonds hereafter guaranteed must establish a lien upon all the operating properties of the guaranteeing corporation which lien must take precedence over any subsequent issues of mortgage obligations by said guaranteeing corporation).

[Publishers' Note 4, Section 61, amended 1919:

The last proviso, enclosed in brackets, at the end of the above subdivision "(3)", was added in 1919.]

Income of merged
corporation—what in-
cluded.

In determining the income of any corporation specified in paragraph (g) of subdivision three of this section, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation the entire business and income producing property of which the corporation issuing such bonds has wholly acquired.

All bonds author-
ized by par.(g) must
be secured by mtg.
or deed of trust
which is,
either—

All bonds authorized for investment by paragraph (g) of subdivision three of this section must be secured by a mortgage or deed of trust which is at the time of making such investment; either

Closed first mtg. or
deed of trust; or

I. A closed first mortgage or deed of trust; or,

First mtg. or deed
of trust with restric-
tions on issuing fur-
ther bonds, as speci-
fied; or

II. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or,

III. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements of such corporation after including the additional bonds then proposed to be issued; or,

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

Refunding mtge. or deed of trust providing for retirement of prior-lien, mtge. debts and restricting issuance of further bonds, as specified, or

IV. An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, maintenance charges, operating expenses, taxes and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust or, if such income, maintenance charges or operating expenses can not be definitely ascertained, on the proper proportionate share of such property in the general income, maintenance charges, operating expenses and taxes of the corporation then owning such property and on the mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust; provided, however, that if the payment of the bonds secured by such underlying or divisional closed mortgage or deed of trust shall be guaranteed or assumed by the corporation then owning the property securing the same, such bonds shall be legal investments for savings banks, if the net income of such corporation from all sources shall equal the amount herein required, notwithstanding any insufficiency of the income derived from the property covered by such underlying or divisional closed mortgage or deed of trust to meet the requirements of this section.

Underlying or divisional closed mtge. or deed of trust of property forming part of the operating system of corporation then owning said property, with income requirements, as specified.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

"Street railroad
corp." and other
terms defined.

Notes or bonds se-
cured by first mort-
gage or deed of trust
or other 1st lien on
real estate, etc., with
specified limitations.

Where real estate,
etc., consists of oil
or other mineral or
timber land, the
value of same not
included in fixing
market value.

Redwood timber may
be included in fixing
market value.

Collateral trust bonds
or notes secured by—

Deposit of bonds
authorized for in-
vestment by Sec., of
specified market
value;
Deposit of bonds so
authorized by this
Sec., and other se-
curities, of combined
market value and of
par value, as speci-
fied.

The terms, "street railroad corporation," "pipe line corporation," "gas corporation," "electrical corporation," "telephone corporation," "telegraph corporation," "water corporation," and "public utility," when used in paragraph (g) of subdivision three of this section, shall have the meaning defined in the "public utilities act,"

(h) Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; provided, that the entire note or bond issue shall not exceed sixty per centum of the market value of such real estate, or such real estate with improvements, taken as security; and provided, further, in case the said note or bond issue is created for a building loan on real estate, that at no time shall the entire outstanding note or bond issue exceed sixty per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security.

In determining the market value of any real estate under the provisions of paragraph (h), subdivision three of this section, where such real estate, improved or unimproved, consists of oil or other mineral or timber land, the value represented by such oil or other mineral or timber shall not be included in fixing such market value. Nothing herein contained shall prevent savings banks from making loans secured by mortgage or deed of trust upon lands wherein redwood timber is included in fixing the market value thereof.

(i) Collateral trust bonds or notes when secured by either:

(1) Deposit of bonds authorized for investment by this section of a market value at least fifteen per centum in excess of the par value of the collateral trust bonds or notes issued; or,

(2) Deposit of bonds authorized for investment by this section and other securities of a combined market

value at least twenty per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of said collateral trust bonds or notes shall in no case exceed the market value of that portion of the security represented by bonds authorized for investment by this section.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

(3) Deposit of any notes or bonds authorized for investment by this section and other securities of a combined market value of at least thirty per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of such collateral trust bonds or notes issued shall in no case exceed the market value of that portion of the security represented by notes or bonds authorized for investment by this section; provided, further, that the collateral pledged consist of bonds authorized for investment by this section of the market value of at least seventy-five per centum of the par value of such collateral trust bonds or notes issued.

Deposit of any notes
or bonds authorized
for investment by
Sec. and other securi-
ties of a combined
market value, as
specified.

(j) Bonds legal for investment by savings banks in the states of New York or Massachusetts; provided, however, that as to bonds of the character specified in paragraph (c) of subdivision three of this section, such bonds shall also conform to the requirements of such paragraph.

Bonds legal for sav-
ings bank investment
in N. Y. or Mass.,
proviso:

(k) Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of chapter eight of title two of part four of division first of the Civil Code.

Notes or bonds se-
cured by mtge. or
deed of trust, pay-
ment guaranteed by
mortgage insurance
and mortgage par-
ticipation certs.

“Net earnings” as used in this section shall be deemed to mean the amount remaining after deducting from the gross earnings all taxes, maintenance charges and operating expenses except depreciation charges, sinking fund charges and interest on indebtedness.

“Net earnings” de-
fined.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

Period for which any
corporation must
have "net earnings,"
etc., under Sec.
defined.

No notes, bonds, or
other securities
deemed to conform
to requirements of
paragraphs (f), (g),
(h), or (i) of subd.
3 of Sec., unless as
specified.

Unless herein otherwise expressly provided the period for which any corporation must have "net earnings" sufficient to qualify its bonds as an investment for savings banks under this section shall be either the fiscal year of such corporation next preceding the investment therein by any savings bank or twelve consecutive months in the fourteen months next preceding such investment.

No notes, bonds, or other securities shall be deemed to come within or conform to the requirements of either of paragraphs (f), (g), (h), or (i) of subdivision three of this section, unless such notes, bonds or other securities shall, in the manner provided in this act, have been certified by the superintendent of banks to come within and fully conform to the requirements of one or the other of said paragraphs; provided, however, that any bank may, without such certification by the superintendent of banks, purchase any note or bond or issue of notes or bonds provided for in said paragraph (h), whenever such purchase constitutes the entire amount of notes or bonds executed by the makers thereof and secured by the same real estate; (provided, also, that no savings bank shall hold any such notes or bonds unless such holding constitutes the entire issue thereof at any time outstanding; and provided, also, that nothing in this paragraph shall be construed to permit savings banks to invest in notes or certificates evidencing participation in any mortgage on real estate unless in this act specifically authorized or in or on any form of obligation secured by any undivided interest in real estate designed to distribute the obligation so secured).

[Publishers' Note 5, Section 61, amended 1919:

The last two provisos of the above paragraph, enclosed in brackets, beginning, respectively, "provided also" "and provided also" were added in 1919.

The purpose sought to be covered by said provisos is to protect savings banks in investments in notes or bonds secured by real estate, where the entire issue is purchased by a single bank; but it prevents any savings banks from purchasing any part of such an issue unless the whole issue has been certified by the

Superintendent of Banks as provided in Section 61a of the Act. The amendment also prohibits investment by savings banks in notes secured by undivided interests in real estate, unless such issue of notes is first certified by the Superintendent of Banks.]

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

The legality of investments heretofore lawfully made pursuant to the provisions of this section, or of any law of this state as it existed on and subsequent to July 1, 1909, shall not be affected by any amendments to this section or this act; nor shall any such amendments require the changing of investments once lawfully made under this act.

Legality of investments lawful when made, not affected or required to be changed by amendments.

Any bonds authorized by this section as a legal investment for savings banks may be carried on the books of said bank at their investment value, based on their market value at the time they were originally bought, unless the superintendent of banks shall require any or all of the bonds which may thereafter have a market value less than the original investment value to be written down to such new market value which shall be done gradually if practicable and in such manner as he may determine; or he may, by a plan of amortization to be determined by him, require such gradual extinction of premium as will bring such bonds to par at maturity.

Bond authorized by Sec. as investment—how carried on books of bank, etc.

(When it shall be necessary to prevent loss to any savings bank on an obligation owned or on a debt previously contracted in good faith, it may, with the previous written consent of the superintendent of banks, purchase or acquire bonds of any railroad corporation incorporated under the laws of the state of California and operated exclusively therein, notwithstanding such bonds do not conform to the requirements in this section contained; provided, any bonds so purchased or acquired must be sold for the best price obtainable by any bank within five years after such purchase or acquisition).

Bonds of intrastate R. R. corp'n not conforming to Sec., when purchasable—

[Publishers' Note 6, Section 61, amended 1919:

The above paragraph, enclosed in brackets, was added in 1919.]

No savings bank shall hereafter purchase or loan money upon any bond, note or other evidence of indebted-

Classes of bonds issued by "public utility," in which savings bank may invest, etc.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

edness, issued by any "public utility," subject to the jurisdiction, regulation or control of the railroad commission of this state under the provisions of the "public utilities act," approved December 23, 1911, and acts amendatory thereof or supplemental thereto, unless each such bond, note or other evidence of indebtedness was either:

(a) Issued prior to the taking effect of the "public utilities act"; or,

(b) Issued under authority of the railroad commission, in accordance with the provisions of said act; or,

(c) A note issued for a period not exceeding twelve months, in accordance with the provisions of subdivision (b) of section fifty-two of said act.

State not to be liable
for payment of, or to
guarantee regularity
of securities certified
by Supt.

No provision of this act, and no act or deed, done or performed under or in connection therewith, and no finding made or certificate issued under any provision thereof, shall be held or construed to obligate the state of California to pay, or be liable for the payment of, or to guarantee in any manner whatsoever, the regularity or the validity of the issuance of any stock or bond certificate, or bond, note, or other evidence of indebtedness certified under any provision of this act, by the superintendent of banks.

Advertising bonds as
legal investment for
savings banks—un-
lawful unless under
conditions specified.

It shall not be lawful for any individual, firm, association, bank, trust company, stock company, copartnership or corporation to advertise by newspaper or circular or in any other manner that any securities are legal investments for savings banks in this state or to use any advertisement which might lead the public to believe that any securities conform to the requirements of law relating to investments by savings banks unless such securities are such as are specified in paragraphs (a), (aa), (b), (c), (d), (e), (j), or (k) of subdivision three of this section or shall, in the manner provided in this act, have been certified by the superintendent of banks to

come within and fully conform to the requirements of one or the other of paragraphs (f), (g), (h), or (i) of subdivision three of this section or unless such advertisement shall have been approved in writing by the superintendent of banks prior to publishing, circulating or otherwise issuing the same. Any individual, firm, association, bank, trust company, stock company, copartnership or corporation who shall advertise any securities in violation of the provisions of this paragraph shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

Penalty.

[Publishers' General Note to Section 61, amended 1919:

The specific amendments or changes in this section have been pointed out at the points where they occur, in the body of the section. Speaking generally, it may be said that this section is the governing section of the Bank Act as regards savings bank investments. It is one of the most critically established laws in any State of the Union, and the changes that have been made are designed to fortify, in such particulars as suggest the necessity, the regulations governing the investment by savings banks in the securities designated by Section 61. By the amendments, it will be observed, banks are given the further privilege to invest in bonds or interest-bearing notes or obligations of England or the United Kingdom of Great Britain and Ireland or France or the Dominion of Canada or those for which the faith and credit of any one or more of said countries are pledged for the payment of principal and interest, and also bonds or interest-bearing notes or obligations of any other foreign country or government which shall first have been approved by the Superintendent of Banks in writing.

The law governing investments by savings banks in notes or bonds secured by real estate is also strengthened to prevent any of the changes which may follow locality optimism or the speculative indulgence of real estate promoters.]

Section 61a. The superintendent of banks shall have power, when any issue of bonds or securities is presented to him for that purpose, to investigate and ascertain whether such bonds or securities come within and fully conform to all the requirements of paragraphs (f), (g), (h), or (i) of subdivision three of section sixty-one of this act, or of either of said paragraphs. He may also investigate and ascertain for what period of time, and

Supt. may investigate securities presented and ascertain if they conform to Act.

**BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.**

On questions concern-
ing securities, Supt.
may act on legal
opinions and ap-
praisements present-
ed by applicant.

Supt. may select at-
torneys, appraisers
and accountants, at
expense of applicant.

If Supt. finds bonds
or securities conform
to Sec. 61, he shall
so certify; otherwise
certificate refused.

Supt. may investigate
and certify as to
sufficiency of bonds
specified in par. (e),
of subd. 3, Sec. 61.

upon what conditions, any franchise granted to or held by any corporation issuing any such bonds or securities will remain in force, and any other facts or conditions bearing upon the value or sufficiency of such bonds. The superintendent of banks may accept and act upon the opinions and appraisements of any attorneys, engineers, or appraisers which may be presented by such person or corporation, so applying, and the reports of any of the executive officers of the corporation issuing such bonds or securities, on any question of fact concerning or affecting such bonds or securities, the security thereof, the franchise conditions herein mentioned, or the financial condition of the corporation issuing the same. In lieu of or in addition to such opinions, appraisements and reports, the superintendent of banks may, if he deems proper, have any or all such matters passed upon and certified to him by attorneys, engineers, appraisers or accountants of his own selection at the expense of the applicant. If the superintendent of banks shall find from such investigation that the bonds or securities so presented come within and fully conform to all the requirements of any of said paragraphs of subdivision three of section sixty-one of this act, and is satisfied from such investigation as to such franchise conditions, he shall so certify unless for any reason he shall be of the opinion that such bonds are not a safe or proper investment for savings banks, and in such event or if such bonds shall fail to meet the requirements of this act such certificate must be refused. The superintendent of banks also shall have power to investigate and ascertain the status and sufficiency as investments for savings banks of any bonds specified in paragraph (e) of subdivision three of section sixty-one of this act. If upon such investigation it shall be determined in the opinion of the superintendent of banks that any bond specified in said paragraph (e) of subdivision three of section sixty-one of this act constitutes a proper investment for savings banks he shall so certify.

Any certificate issued by the superintendent of banks under authority of the provisions of this section may be revoked at any time in his discretion. Any certificate issued in relation to notes or bonds specified in paragraphs (f), (g) or (i) of subdivision three of section sixty-one of this act shall expire not later than three months after the end of the then current fiscal year of the corporation issuing such notes or bonds.

BONDS WHICH ARE
LEGAL INVEST-
MENTS—Continued.

Supt. may revoke
certificate.

Any such certificate so expiring may be renewed or extended by the superintendent of banks without application therefor from such corporation or other interested parties if he shall be satisfied that the notes or bonds referred to in said certificate are in conformity with the then requirements of section sixty-one of this act.

Expiring certificate
renewable.

The actual expense of investigating any issue of bonds or securities so presented shall be paid by the person, district or corporation presenting the same for investigation, and the superintendent of banks, before making such investigation, may require a cash deposit of such amount as he may deem necessary to cover such expense. The superintendent of banks shall keep an official list of all bonds and securities certified by him.

Expense of investi-
gating issues, by
whom paid.

Official list of
securities.

[Publishers' Note, re Section 61a, amended 1919:

In this section, providing for the certification of savings bank investments by the Superintendent of Banks, the amendment consists of an added paragraph to give to the Superintendent of Banks power to extend or renew his certificate of eligibility of bonds of savings banks without requiring an application from any corporation issuing the bonds or of any person interested in them. This change is required because of the fact that as soon as the bonds are certified and have become investments in savings banks, the issuing corporation loses all interest in the bond by operation of law and ceases to be eligible. The amendment is intended to protect the savings bank in the continued holding of such bonds.]

Section 62. No savings bank shall, directly or indirectly, deal or trade in real or personal property in any other case or for any other purpose than is authorized by this act, and shall not contract any debt or liability for

Dealing in real or
personal property,
and contracting of
debt.

any purpose whatever other than for deposits, except as in this section provided.

Savings banks may on request pay depositors by draft, and charge exchange therefor.

Savings banks may pay regular depositors, when requested by them, by draft upon deposits to their credit with their banks, and charge current rate of exchange for such drafts.

Savings bank not to borrow money except to meet demands of depositors.

No savings bank shall borrow money, or pledge or hypothecate any of its securities, except to meet the immediate demands of its own depositors, and then only in pursuance of a resolution adopted by a vote of a majority of its board of directors, duly entered upon their minutes, wherein shall be recorded the ayes and nays upon each vote; also with the written approval of the superintendent of banks, and he shall have the authority to fix the amount to be borrowed, the amount and character of the securities to be pledged or hypothecated, and the term and rate of interest thereon; provided, that any savings bank may, for the purpose of performing its functions and transacting its business as authorized by this act, rediscount, with or without guarantee or endorsement, with the federal reserve bank, its acceptances, notes or any other securities, available for rediscount with a federal reserve bank, in any amount up to but not exceeding its capital and surplus or reserve without consent of the superintendent of banks, and shall not be considered as borrowed money within the meaning of this section; provided, also, that savings banks may, in the manner authorized by law, and without the previous approval of the superintendent of banks, borrow the public moneys of the United States, the State of California, the counties, cities and counties, and towns of said State of California and receive such public moneys on deposit; provided, also, that savings banks may, in the manner authorized by law, and without the previous approval of the superintendent of banks, borrow postal savings moneys of the United States, and receive such

Savings banks may, to extent of capital and surplus or reserve, rediscount eligible assets with Federal Reserve bank.

Savings bank may borrow and receive on deposit public moneys, federal and state, as specified.

postal savings moneys on deposit; and provided, further, savings banks may borrow any amount, in addition to the amounts authorized to be borrowed in this section, for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States, but only in pursuance of a resolution of a majority of its board of directors, duly entered upon their minutes, and without the previous approval of the superintendent of banks, but the fact of such transaction shall forthwith be reported in writing to the superintendent of banks. No excess loan made to any savings bank with or without pledge of assets shall be invalid or illegal as to the lender.

May borrow any additional amount for purchase from U. S. of U. S. bonds and other federal securities, in manner specified.

Excess loan to savings bank.

[Publishers' Note, re Section 62, amended 1919:

This section, which governs, restricts and guards the borrowing by savings banks, is liberalized to permit savings banks, to the extent of their capital and surplus, to rediscount such assets as they may possess with a Federal Reserve bank, such assets necessarily to be eligible for such rediscount; and also to borrow in any amount for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States. The first named amendment is designed to make absolutely liquid the secondary reserve of the savings bank, and the second offers a suggestion of assistance to the federal government without impairing the character of the savings bank.]

Section 63. Savings banks may issue general certificates of deposit, which are transferable, as in other cases, by indorsement and delivery; may issue, when requested by the depositor, special certificates, acknowledging the deposit by the person therein named of a specified sum of money, and expressly providing on the face of such certificate that the sum so deposited and therein named may be transferred only on the books of the bank; payment thereafter made by the bank to the depositor named in such certificate, or to his assignee named upon the books of the bank, or in case of death, to the legal representative of such person, of the sum for which such special certificate was issued, shall discharge the bank from all further liability on account of the money so paid.

Savings bank may issue certificates general and special, of deposits on conditions specified.

All time certificates of deposit, issued by a savings bank, shall be subject to the same limitations and condi-

Time certificates of deposit subject to same condition as other deposits, etc.

tions as applied to other deposits, and notice thereof shall be given by the words "Subject to conditions of agreement with depositors" printed on the face of the certificate issued.

Savings bank to prescribe by its by-laws or by contract, time and conditions of repayment to depositor.

Section 64. Each savings bank must prescribe by its by-laws, or by contract with its depositors, the time and conditions on which repayment is to be made to depositors, except as in this act otherwise provided. In all cases the by-laws or contracts shall provide that notice of at least thirty days may, at the option of any such bank, be required to be given of intention to withdraw any deposit or part thereof, but whenever there is any call by depositors for repayment of a greater amount than the bank may have disposable for that purpose, the directors or officers thereof must not make any new loan or investment of the funds of the depositors or of earnings thereof until such excess of call has ceased. The directors of any such bank having no capital stock shall, before the declaration of any dividend, carry at least one-tenth part of the net profits of such bank, for the preceding half year, or for the period covered by said dividend, to its reserve fund. Subject to the provisions of section nineteen of this act, any losses sustained by any such bank may be charged to and paid out of its reserve fund. A larger reserve fund may be created and nothing herein contained shall be construed as prohibitory thereof. The assets of any such bank are a security to its depositors. Any such bank organized without capital stock, may provide by its by-laws for the disposal of any amount in its reserve fund in excess of the amount required by section nineteen of this act and may also provide for final disposal upon the dissolution of the bank of its reserve fund or the balance thereof remaining after payment of any losses of such bank.

Savings bank without capital stock shall carry at least one-tenth profits to reserve.

Savings bank shall not loan to any director or officer, or

Section 65. No loan shall be made, for himself or as agent or partner of another, directly or indirectly, to any

director or officer of any savings bank by such bank, or on the endorsement, surety or guaranty of any such officer or director, except that loans may be made to any corporation in which any director or officer of such savings bank may own or hold a minority number of shares of stock, upon authorization of a majority of all the directors of such savings bank and the affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all other respects conform to and comply with all other provisions of this act. Such interested director or officer shall not vote or participate in any manner in the action of the board on such loan; provided, also, that by and with the consent of the superintendent of banks previously obtained in writing, all directors may vote upon such a loan made by one bank to another bank where the entire capital stock of one is owned by or held in trust for the stockholders of the other bank and where all or a majority of the board of directors of each of said banks are composed of the same persons. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the corporate name of the borrower, the name of each director or officer of such bank who is a member, stockholder, officer, or director of the corporation to which such loan is made, the amount of stock held by him in such borrowing corporation, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. No loan may be made to any corporation, a majority of the stock of which is owned or controlled by any one or more of the directors or officers of such savings bank, except with the previous consent of the superintendent of banks.

upon his endorsement, etc., except loan may be made to corporation in which director or officer holds minority stock.

Interested director not to act on such loan.

On loan by one bank to another all directors may vote, on conditions specified.

Facts concerning such loan to be reported to Supt.

Loan to corporation where majority of its stock owned, etc., by one or more directors or officers of bank.

Savings bank may
loan to agent or
employee.

A loan may be made to any agent or employee, other than an officer or director, of any savings bank by such bank upon authorization of a majority of all the directors of such savings bank and an affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all respects conform to and comply with all other provisions of this act. Such authorization shall be entered upon the records or minutes of such savings bank.

Facts concerning
such loan to be re-
ported to Supt.

The fact of making such loan, the names of the directors authorizing such loan, the name of the borrower, the nature of his employment, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of the security given therefor, and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. Any officer or director of any savings bank, who knowingly procures a loan from such savings bank, contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks any loan made

Violations of
section.

contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the State of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

Penalties.

Loans to banks and
religious corpora-
tions.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such savings bank may be members or officers, but in which they have no financial interest.

Loans may be made to any director, other than an officer, directly or indirectly, or to any agent or employee of a savings bank on the security of United States bonds, United States treasury certificates, or interest-bearing notes, or obligations of the United States, or those for which the faith and credit of the United States are pledged for repayment of principal or interest, or those issued under authority of the United States, notwithstanding anything in this section contained, and such loans may be made in the usual manner of making loans in which no director of such bank is interested.

Loans permitted to director other than officer, or to agent or employee of a savings bank, on security of U. S. bonds or other U. S. obligations as specified.

[Publishers' Note, re Section 65, amended 1919:

The amendment to this section, which establishes the limits upon any relationship as between the bank, its officers, directors, agents or employees, provides that by and with the consent of the Superintendent of Banks, previously obtained in writing, all directors may vote upon a loan made by one bank to another bank where the entire capital stock of one is owned by or is held in trust for the stockholders of the other bank, and where all or a majority of the board of directors of each of said banks are composed of the same persons. This amendment is designed to obviate unnecessary obstacles which the section in itself and without need raised, as against certain transactions which may be of benefit to both of the banks concerned.

Another amendment to the section also makes it possible for a bank to loan to any director, other than an officer, directly or indirectly, and to an agent or employee of a savings bank, upon the security of United States bonds, United States Treasury Certificates, or interest-bearing notes or obligations of the United States or those for which the faith and credit of the United States are pledged for repayment of principal or interest or those issued under authority of the United States. Borrowing by officers, directors, agents, or employees in savings banks is strictly restricted and very carefully supervised, but the liberalization of the section in no way creates an injurious influence in the bank, as the security for the loan is beyond question of the first value.]

Section 66. No savings bank shall hereafter make any loans to any person, firm, copartnership or corporation to an amount exceeding fifty per centum of the actual paid-up capital stock and surplus of such bank, or in the case of a bank organized without capital stock, to an amount exceeding fifty per centum of the reserve fund of such bank; provided, however, that any savings bank having a paid-up capital and surplus of less than fifty thousand dollars, but not less than twenty-five thousand dollars, may make any such loan on real estate security to an amount not exceeding twenty-five thousand dollars; and provided, further, that any savings bank having

Savings banks not to make loans to any person, etc., exceeding 80% paid-up capital and surplus.

Exceptions to foregoing.

Renewal or extension
of loan hereafter
legally made, not
"loan hereafter
made."

Endorser deemed
borrower.

No savings bank
shall loan except on
adequate security,
for limited period.

Savings bank may
discount or purchase
bankers' or trade
acceptances, notes,
etc. eligible for re-
discount with Fed.
Reserve bank, and
complying with
specified require-
ments:

Bill issued by
solvent individual,
firm or corporation
in mercantile or
mfg. business in
U. S., making state-
ments of condition
certified by public
accountant.

a paid-up capital and surplus of less than twenty-five thousand dollars may make any such loan on real estate security to an amount not exceeding its paid-up capital and surplus, if each such loan in all other respects conforms to the provisions of this act. The renewal or extension of any loan heretofore legally made by any savings bank shall not be construed to be a "loan hereafter made" within the meaning of the provisions of this section. **The legality of investments heretofore lawfully made pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section.** For the purposes of this section an endorser or guarantor shall be deemed to be a borrower.

Section 67. 1. No savings bank shall loan money except on adequate security of real or personal property, and no such loan shall be made for a period longer than ten years. **No such loan shall be made on unsecured notes; provided, that a savings bank may discount or purchase bankers' or trade acceptances, notes, drafts and bills of exchange of the kind and character and maturities defined and made eligible for rediscount with a federal reserve bank; provided, also, that the same are accepted or endorsed without qualification by a bank or trust company, which bank or trust company has a paid-in capital of at least one million dollars; and provided, also, that a savings bank may discount or purchase a bill which must comply with the following requirements:**

(a) **It must be a bill issued by a solvent individual or firm or corporation engaged in mercantile or manufacturing business in the United States that makes statements of its condition duly ascertained and certified to by a public accountant. Copy of such a certified statement shall be on file in the office of the savings bank discounting or purchasing such bill in a file maintained for such purpose. Said statement shall have been issued within**

the preceding fourteen months and shall be the latest issued by said individual or firm or corporation. Said statement shall consist of a balance sheet showing quick assets, slow assets, permanent or fixed assets, current liabilities and accounts, short term loans, long term loans, capital and surplus. Accompanying said balance sheet shall be a copy of a statement from the borrower or public accountant concerning the following:

Form and contents
of such statement:

- (1) The nature of the business.
- (2) All contingent liabilities such as endorsements or guarantees.
- (3) Particulars respecting any mortgage debts and whether there is any lien on current assets.
- (4) The maximum and minimum liabilities of the individual, firm or corporation during the twelve months previous to the date of audit.

(b) It must be issued by an individual, firm or corporation whose net worth is not less than two times the amount of its outstanding liabilities, including any contingent liabilities arising from the rediscount of bills receivable or other accommodation endorsements, nor less than three hundred thousand dollars. The quick assets of said individual, firm or corporation, consisting of merchandise, finished, raw, and in the process of manufacture, accounts receivable, bills receivable, bonds or obligations of the government of the United States at the then market value of said bonds or obligations and cash, shall not be less than two times its outstanding quick liabilities including any contingent liabilities arising from the rediscount of bills receivable or other accommodation endorsements, as shown by said statement.

Bill must be
issued by individual,
firm or corporation
meeting specified
requirements as to
assets and liabilities.

(c) It must have a maturity of not more than six months.

Bill to have
maturity of not
more than 6 months.

Bill must have arisen out of actual commercial transactions, etc.

(d) It must have arisen out of actual commercial transactions; that is, be a bill which has been issued or drawn for industrial or commercial purposes or the proceeds of which have been or are to be used for such purposes.

Bills not eligible;

No bill shall be eligible for discount or purchase by a savings bank, the proceeds of which have been used or are to be used for any of the following purposes:

(1) For speculative investments, etc.

(1) For investments of a merely speculative character whether made in goods or otherwise.

(2) For dealing in stocks, bonds or other investment securities, except U. S. bonds; must not cover investments.

(2) Must not have been issued for carrying or trading in stocks, bonds or other investment securities, except bonds of the government of the United States, and must not cover merely investments.

(3) Must not be bill of individual, etc., having under pledge any personal assets.

(3) Must not be a bill of any individual, firm or corporation which has under pledge or hypothecation any of its personal assets.

Bill defined.

The word "bill," when used in this section, shall be construed to include notes, drafts, or bills of exchange, and the word "goods" shall be construed to include goods, wares or merchandise.

Savings bank purchasing or discounting such paper shall have file showing credit of parties whose paper is under discount.

Any savings bank purchasing or discounting such paper shall have in a file maintained for the purpose, letters from banks and merchants or mercantile reports bearing upon the credit and standing of the person, firm, copartnership or corporation whose paper is under discount.

Combined total amount held by bank of bankers' and trade acceptances, drafts, bills of exchange and bills of the character defined by Sec. shall not be greater than 20% of bank's deposits.

No savings bank shall at any time acquire or hold, directly or indirectly, by discount or purchase, a combined total amount of bankers' and trade acceptances, drafts and bills of exchange and bills of the character defined and limited by this section, greater than twenty per centum of the deposits of such bank, nor shall any savings bank at any time acquire or hold, directly or indirectly, by discount or purchase, an amount of bills, of the character defined and limited by this section, greater than

Amount of bills of character defined by Sec. shall not be greater than 12 1/2% of bank's deposits.

twelve and one-half per centum of the deposits of such bank. No savings bank shall at any time acquire or hold, directly or indirectly, by discount or purchase, any such bankers' or trade acceptances, drafts and bills of exchange from any one acceptor in an amount which shall exceed five per centum of the capital and surplus or reserve of such savings bank nor shall any savings bank at any time acquire or hold, directly or indirectly, by discount or purchase, any such bills of any one person, firm, copartnership or corporation in an amount which shall exceed five per centum of the capital and surplus or reserve of such savings bank.

Such bankers' or trade acceptances, drafts and bills of exchange from any one acceptor shall not exceed 5% of capital and surplus or reserve of bank.

2. No savings bank shall invest or loan an amount greater than fifty per centum of its actual paid-up capital and surplus on any one note or bond issue of the class specified in paragraph (h), or on the securities issued by any one mortgage insurance company of the class specified in paragraph (k) of subdivision three of section sixty-one of this act, nor more than five per centum of its assets on any one bond issue of any other class, except bonds of the United States, or interest-bearing notes or obligations of the United States, or bonds of the State of California, bonds for which the faith and credit of the United States or of the State of California are pledged, or bonds of any county, city and county, city or school district in this state, or bonds of any irrigation district such as are legal for investment by savings banks.

No savings bank shall invest or loan more than specified percentages of its paid-up capital and surplus, or of its assets, on bond issues or securities of specified classes. Bonds or obligations of the U. S. and of the State or designated subdivisions thereof, excepted.

3. No savings bank shall loan money:

No savings bank to loan money:

(a) On bonds of the character specified in paragraphs (a), (aa), (b), (c) and (d) of subdivision three of section sixty-one of this act, or on bonds of the character specified in paragraph (e) of subdivision three of section sixty-one of this act the principal and interest of which are to be paid in whole or in part by taxes levied upon the property in the district issuing such bonds, unless such

On bonds, and on bonds and notes, of the character and requisites specified in certain paragraphs in Sec. 61, and in this section,—unless same have market values of specified percentages above amounts loaned thereon.

bonds shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

(b) On bonds of the character specified in paragraphs (f), and (g) or on bonds or notes of the character specified in paragraph (i) of subdivision three of section sixty-one of this act, when eligible as investments for savings banks pursuant to said section, or on bonds of the character specified in paragraph (e) of subdivision three of section sixty-one of this act other than those specified in the preceding paragraph of this section, unless such bonds or notes shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

On bonds legal for investment in N. Y. or Mass., unless market value 15% above amt. loaned thereon.

(c) On bonds legal for investment by savings banks in the states of New York or Massachusetts, unless such bonds shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

On notes or bonds or on securities of character specified in designated paragraphs of subd. 3 of Sec. 61, when certified or eligible for savings-bank investment, unless market value at least 10% above amt. loaned.

(d) On notes or bonds of the character specified in paragraph (h) of subdivision three of section sixty-one of this act when certified as legal investments for savings banks under the provisions of section sixty-one-a or on securities of the character specified in paragraph (k) of subdivision three of said section eligible for investment by savings banks, unless such bonds, notes or securities shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

On personal property, unless same has market value at least 50% above amt. loaned.

(e) On personal property unless such personal property shall have a market value at least fifty per centum in excess of the amount loaned thereon; or,

On other bonds, or on capital stock of corporation, unless same have market value at least 50% above amount loaned. Restriction on loan on bank stock.

(f) On other bonds, or on capital stock of any corporation, unless such bonds or stock shall have a market value at least fifty per centum in excess of the amount loaned thereon; provided, however, that no loan shall be made upon the capital stock of any bank unless such bank has been in existence at least two years and has earned and paid a dividend on its capital stock.

4. No savings bank shall make any loan on security of real estate, except it be a first lien, and in no event to exceed sixty per centum of the market value of any real estate taken as security except for the purpose of facilitating the sale of property owned by such savings bank; provided, that a second lien may be accepted to secure the repayment of a debt previously contracted in good faith; and provided, also, that any savings bank holding a first mortgage or deed of trust on real estate may take or purchase and hold or loan upon another and immediately subsequent mortgage or deed of trust thereon, but all such loans shall not exceed in the aggregate sixty per centum of the market value of the real estate securing the same; provided, further, that a savings bank may loan not to exceed ninety per centum of the face value of a mortgage which constitutes a first lien upon real estate, but in no event shall any such loan exceed ninety per centum of sixty per centum of the market value of the real estate covered by said mortgage or deed of trust.

Savings bank not to make loan on real estate, except it be first lien, not exceeding 60% of market value. Exception.

Provides, permitting acceptance of 2nd liens under specified conditions, and loans not exceeding 90% of face value of first-lien, real-estate mortgage, and 60% of market value of realty mortgaged.

5. No savings bank shall loan to any one borrower on the security of the capital stock of any corporation an amount exceeding ten per centum of the capital stock and surplus of such savings bank; provided, that all loans on the capital stock of any one corporation shall not exceed in the aggregate twenty-five per centum of the capital stock and surplus of such savings bank.

Capital-stock loans to any one borrower not to exceed 10%, and total loans on stock of any one corporation not to exceed 25%, of bank's capital and surplus.

6. No savings bank shall purchase, invest or loan its capital, surplus or the money of its depositors, or any part of either, in mining shares or stock and any president or managing officer who knowingly consents to a violation of any provision of this paragraph shall be guilty of a felony.

Savings bank not to purchase, invest or loan any capital, surplus or deposits in mining shares. Violation a felony.

[Publishers' note, re Section 67, amended 1919:

This is one of the most important amendments to the Bank Act. California was the first of the American States to permit its savings banks to invest a certain proportion of their assets in liquid form, namely, in bankers' acceptances and commercial paper of a grade that is considered by leading financial experts

and bankers of the United States to be such that it is practically equal to cash. The amendment which made possible this investment was adopted in 1917 and restricted the savings banks to a limit of 10 per cent. of their deposits in these liquid investments. Five per cent. of this limit was to be in bankers' acceptances and the other five per cent. in commercial paper. With the advent of the Federal Reserve system and its mobilization of reserves which are intended to protect the banks in the system from panics and from general financial distress, the need of a greater liquid investment, which becomes an actual secondary reserve, was apparent, and the amendment increases this percentage of investments, liquid assets, to 20 per cent. of the deposit liability. All of this 20 per cent. may be invested in bankers' acceptances which bear a low rate of interest; but no more than 12½ per cent. may be invested in commercial paper. The character of this commercial paper has the endorsement of the Federal Reserve system itself, and is introduced in our system in order to give to the banks opportunity to avail themselves of the actual mobilization of their reserves in the Federal Reserve system and its mobilization of assets by banks in California. The leading authorities in the financial world consider that such a modification of the section is of vital moment in protecting savings banks from danger, if not from disaster. Three of the conservative and powerful states of the Union, New York, Connecticut and Massachusetts, have followed the lead of California in this direction.

Section 67 is also amended to harmonize its provisions with the changes contemplated in the amendment to Section 61 of the Bank Act relating to loaning and investment by savings banks.]

Amount and character of total reserves of savings bank or savings bank department.

Section 68. Every savings bank or savings department of a bank shall at all times maintain total reserves equivalent to five per centum of the aggregate amount of its deposits, exclusive of United States, postal savings bank, state, county and municipal, and other public money deposits, which are secured as is required by law; at least two and one-half per centum of such deposits shall be maintained as reserves on hand, which shall consist of gold bullion, or any form of money or currency authorized by the laws of the United States, and two and one-half per centum of such deposits may be maintained as reserves on hand, which shall consist of bonds, or interest bearing obligations of the United States, of gold bullion, or any form of money or currency authorized by the laws of the United States or may be maintained as reserves on deposit subject to call with any reserve depositary provided for in sections twenty and forty-three of this act; provided, however, that all or

May be maintained as reserves on hand, or as reserves on deposit with reserve depositary, as specified.

any part of the reserves may be deposited, subject to call, with a federal reserve bank in the district in which such bank is located; provided, also, that no savings bank or savings department shall be required to maintain reserves on hand in excess of four hundred thousand dollars, and when such reserves on hand reach that amount, the balance of total reserves necessary to make up the five per centum may be kept as reserves on deposit, subject to call, with any reserve depositary provided for in sections twenty and forty-three of this act.

Savings bank or dept. not required to maintain reserves on hand in excess of \$400,000. When same reach that amt., balance of the 5% may be kept as reserves on deposit, etc.

If any bank shall have become a member of a federal reserve bank, it shall at all times maintain the reserves required by the federal reserve act for time deposits, and in addition thereto shall be required to maintain a reserve of at least two per centum of its aggregate deposits, exclusive of United States, postal savings, state, county and municipal, and other public money deposits, which are secured as is required by law, which two per centum shall consist of gold bullion, or any form of money or currency authorized by the laws of the United States.

Amount and character of reserves required of bank becoming member of Federal Reserve bank.

If any savings bank shall fail to maintain its total reserves in the manner authorized by this section, it shall be subject to the penalty provided for in section twenty of this act for commercial banks.

Penalty.

No new loan shall be made during any deficiency in the total reserves. Deposits with any commercial bank, or commercial department of a bank, on open account, as provided in this section, shall be permitted and shall not be construed as loans. Not more than five per centum of the deposits of any savings bank shall be deposited with any one bank, except with the consent of the superintendent of banks. Not more than fifteen per centum of the deposits of any savings bank shall be deposited with all commercial banks, except with the consent of the superintendent of banks. No savings bank or savings department shall receive deposits of other banks other

No new loan while total reserves deficient.

Consent of Supt. required for savings banks deposits of more than 5% with any one bank or 15% with commercial banks.

No savings bank or dept. to receive other than savings deposits of other banks; same shall not be treated as part of reserves on deposit of depositing bank. Limitation upon sum so deposited.

than savings deposits and such deposits shall not be treated or considered as a part of the reserves on deposit of such depositing bank, provided, the sum so deposited shall not exceed thirty per centum of the paid-in capital and surplus of the depositing bank nor more than fifteen per centum of the paid-in capital and surplus of the depository bank.

Public administrator may allow deposit of decedent to remain in savings bank where deposited, and may deposit estate moneys therein.

Section 68½. Where a decedent, at the time of his or her death, left moneys on deposit with a savings bank, it shall be lawful for any public administrator, who shall become the administrator of the estate, to allow such deposit to remain in said savings bank, and also, it shall be lawful for him to deposit therein to the account of said decedent, any and all moneys of said estate not required for the current expenses of administration.

Effect of such deposit.

Such deposit, whether made by the decedent or a public administrator, shall relieve the public administrator from depositing the same with the county treasurer. Moneys so deposited, whether by the decedent or by a public administrator, may be drawn upon demand without notice, upon the order of said administrator, countersigned by a judge of a superior court, when required for the purpose of administration or otherwise.

Method of withdrawal.

[Publishers' Note, re Section 68, amended 1919:

In this section, relating to the reserves which must be maintained by savings banks, the changes made by the amendment are those made necessary to permit the full admission of banks in the State of California into the Federal Reserve system. All savings banks may place their reserves, or any part of their reserves, in a Federal Reserve bank in the district in which the savings bank is located, and member banks, while not being permitted to carry reserves demanded by the Federal Reserve bank in lieu of those required by the State Bank Act, must carry those required by the Federal system, and, in addition thereto, two per cent. of their deposit liability, on hand.]

Savings bank to conform to Act.

Section 69. Every savings bank, and the business of every savings department of every other bank, must be conducted under and in accordance with the provisions of this act.

Savings bank may receive as depository, etc., Liberty bonds or other U. S. bonds.

Section 70. Every savings bank shall have power to receive as depository, or as bailee for safe keeping and storage, Liberty bonds or other bonds or securities issued

by the United States government for war purposes or otherwise.

[Publishers' Note, re Section 70, a new section added in 1919:

The enormous acquisition of Liberty Bonds by the public has created a real situation as to their safe-keeping, and steps are being taken in every state to afford some protection as against theft and loss. This new section allows every savings bank in the State to take such bonds on deposit or as bailee for safe-keeping, and to arrange with the owner for the collection and crediting of the interest due on them, and to provide for their payment or return to their proper owners.]

ARTICLE III.

COMMERCIAL BANKS.

Section 80. No commercial bank shall make any loans, directly or indirectly, to any person, firm, copartnership or corporation, in an amount which, including therein any extension of credit to such person, firm, copartnership or corporation, by means of letters of credit, or by acceptance of drafts for, or the discount or purchase of the notes, bills of exchange or other obligations of, such person, firm, copartnership or corporation, shall exceed the following percentage of its capital and surplus:

1. Ten per centum without security, except where such capital stock and surplus is not more than twenty-five thousand dollars, in which event an amount not to exceed twenty per centum of such capital stock and surplus may be loaned without security, and where such capital stock and surplus is greater than twenty-five thousand dollars and does not exceed fifty thousand dollars, a sum not exceeding five thousand dollars may be loaned without security. Nothing herein shall prohibit any commercial bank from taking or receiving any kind, character or amount of security whatsoever, either real or personal, for the protection of any loan made under the provisions of this subdivision, but no such loan or any part thereof shall be considered or construed as a secured

Commercial banks not to loan to any borrowers in amount which, (including extensions of credit as specified), shall exceed following percentages of capital and surplus:

(1) 10% without security.
(Note exceptions)

Bank may take any security for protection of loan made under this subd.

But no such loan to be considered secured loan, unless upon security at least 15% more than amt. of loan.

loan unless the whole thereof is loaned upon security worth at least fifteen per centum more than the amount of such loan; or,

(2) (In addition to amt. loaned under subd. 1) 15% upon security worth at least 15% more than loan secured.
(Note provisos)

2. Fifteen per centum, in addition to the amount that may be loaned under the provisions of subdivision one of this section, upon security worth at least fifteen per centum more than the amount of such loan so secured; provided, the total amount which can be loaned under subdivisions one and two hereof can not exceed twenty-five per centum in all; provided, however, that a separate note or notes shall be taken for the unsecured loans and a separate note or notes shall be taken for the secured loans, and the secured and unsecured loans shall not be combined in any way within one note, or notes; or,

(3) 25% upon security exceeding loan secured at least 15%.
(Note proviso)

3. Twenty-five per centum upon security worth at least fifteen per centum more than the amount of its loans so secured; provided, however, that when secured loans to this amount or any amount in excess of fifteen per centum are made, then no unsecured loans shall be permitted in addition to such secured loans; or,

40%, if loan on commercial paper, owned by negotiator, endorsed without limitation.
(Note provisos)

4. Forty per centum, provided such loans are upon commercial or business paper actually owned by the person negotiating the same to such bank, and are endorsed by such person without limitation; provided, however, that in addition to the amounts permitted to be loaned by subdivisions one, two or three of this section, an amount may be loaned on the securities fixed by subdivision four of this section, which taken with the amounts so permitted by said subdivisions one, two or three will not exceed forty per centum; provided, also that the restrictions under this section shall not apply to bills of exchange or drafts, with bills of lading attached, drawn in good faith against actual existing values; provided, further, that any commercial bank, having first obtained in writing the consent of the superintendent of banks so to do and under such conditions and regulations as

—re combinations loans under subd. 4 and subd. 1, 2, or 3.

—restrictions of Sec. not applicable to drafts, etc., with B/Ls attached, etc.

may be prescribed by him, may accept drafts or bills of exchange drawn upon it running for a period of not longer than six months, but no commercial bank shall accept such drafts or bills of exchange in an amount greater at any time in the outstanding aggregate than one-half of its capital and surplus; but such acceptance or acceptances must be drawn by a person, firm, copartnership or corporation engaged in agricultural, industrial or commercial business directly connected with the production, manufacture, purchase, sale or consignment of the goods involved in the transaction in which the acceptance originated; provided, however, that no such acceptance or acceptances to any one person, firm, copartnership or corporation shall exceed ten per centum of the capital and surplus of such bank.

—re acceptances of specified character for period not longer than six months, limited in aggregate amt., and to drawers in specified business, etc.

—re limit in amount of acceptances to any one person, firm, corporation, etc.

None of the limitations or restrictions contained in the previous subdivisions of this section shall apply to loans, discounts or other extensions of credit secured by Liberty bonds or by other bonds or securities issued by the United States government, if the market value of such Liberty bonds or other securities exceeds by ten per centum the amount of any such loan, discount or other extension of credit.

No limitations in previous subds. apply to loans, etc., secured by Liberty bonds, or other U. S. bonds, etc.

Loans which are made upon security available for loans in a savings bank may be made in a commercial bank upon the same margin of security as is permitted to savings banks anything in this section to the contrary notwithstanding, and all such loans shall be deemed to be secured loans within the meaning of this section.

Loans by commercial bank on security for savings-bank loans, deemed secured loans under Sec.

In computing the total liabilities of any person to a commercial bank there shall be included all liabilities to the bank of any copartnership or unincorporated association of which he is a member, and any loans made for his benefit or for the benefit of such copartnership or unincorporated association; of any firm, copartnership or unincorporated association to a commercial bank there

Total liabilities of any person to commercial bank,—how computed.

shall be included all liabilities of its individual members and all loans made for the benefit of such copartnership or unincorporated association or any member thereof; and of any corporation to a commercial bank there shall be included all loans made for the benefit of the corporation.

[Publishers' Note, re Section 80, amended 1919:

This section is the governing section for loans made by commercial banks. The only change in the section is to permit loans to any director, other than an officer, directly or indirectly, or to any agent or employee of a commercial bank, on the security of United States bonds, United States Treasury Certificates, or interest-bearing notes or obligations of the United States or those for which the faith and credit of the United States are pledged for repayment of principal and interest or those issued under authority of the United States. The amendment was made upon the theory that the security offered by the interest-bearing obligations of the United States offers no hazard to the banks accepting them.]

Loans upon corporate securities, payment of which undertaken, severally, by two or more persons, firms, or corporations,—
forbidden, if made under conditions specified.

Section 81. No loan shall be made by any commercial bank upon the securities of one or more corporations, the payment of which is undertaken, in whole or in part, severally, but not jointly, by two or more individuals, firms, or corporations:

(a) If the borrowers or underwriters be obligated absolutely or contingently to purchase the securities, or any of them, collateral to such loan, unless the borrowers or underwriters shall have paid on account of the purchase of such securities an amount in cash, or its equivalent, equal to at least twenty-five per centum of the several amounts for which they remain obligated in completing the purchase of such securities;

(b) If the commercial bank making such loan be liable, directly or indirectly, or contingently, for the repayment of such loan or any part thereof;

(c) If its term, including any renewal thereof by agreement, express or implied, exceed the period of one year;

(d) Or to an amount under any circumstances in excess of twenty-five per centum of the capital and surplus of the commercial bank making such loan.

Section 82. Every commercial bank hereafter organized must have paid up in cash a capital stock of not less than,

(a) Twenty-five thousand dollars if its principal place of business is located in any locality the population of which does not exceed five thousand persons;

Paid-up capital requirements:

Population not over 5,000—\$25,000.

(b) Fifty thousand dollars if its principal place of business is located in any city the population of which is more than five thousand persons but does not exceed twenty-five thousand persons;

5,000 to 25,000 population—\$50,000.

(c) One hundred thousand dollars if its principal place of business is located in any city the population of which is more than twenty-five thousand persons but does not exceed one hundred thousand persons;

25,000 to 100,000 population—\$100,000.

(d) Two hundred thousand dollars if its principal place of business is located in any city the population of which is more than one hundred thousand persons but does not exceed two hundred thousand persons;

100,000 to 200,000 population—\$200,000.

(e) Three hundred thousand dollars if its principal place of business is located in any city the population of which is more than two hundred thousand persons.

Population exceeding 200,000—\$300,000.

The foregoing classification shall not apply to any commercial bank already in existence which has received its certificate to do a banking business from the superintendent of banks; nor to any bank the location of which shall have been included by annexation or consolidation within the limits of a city of a class requiring a larger capitalization, but no bank thus excepted shall be permitted to establish any new branch office as provided in section nine of this act or to remove its place of business from the original limits of the city or township wherein it was located prior to such annexation or consolidation until it shall have the capital required of banks in such city not within said exception. Such excepted banks

Foregoing classification not retrospective nor applicable to banks included by annexation, etc., in larger city.

But no excepted bank may open new branch, nor remove place of business from pre-annexation location until it have capital required of unexcepted banks.

Decrease and increase
of capital stock of
excepted banks.

Provisions of Sec.
19 re proportion of
capital and surplus
to deposits, etc.,
not affected by Sec.

Population provisions
applicable to banks
organized under Sec.

may not in any case decrease their capital stock but may increase the same in the manner provided by law to an amount either greater or less than that required of banks in such city not within said exception; provided, that nothing herein shall be construed to affect the provisions of section nineteen of this act relative to the proportion of capital and surplus to deposits or of section twenty-three of this act relative to the capital stock required of banks doing a departmental business. The provisions of section twenty-three of this act, as to population, shall apply to any bank organized under the provisions of this section.

Comm'l bank not to
loan to or on endorse-
ment of an officer—
but may loan to cor-
poration of which
officer is minority
stockholder, director,
etc.; and to director
other than officer, or
firm, corp'n, etc.,
of which such direc-
tor is member, etc.;
and loan and extend
credit to member,
not officer, of ad-
visory board of
comm'l bank, or
firm, corp'n, etc.,
with which such
member is connected.

Section 83. No loan shall be made for himself or as agent or partner of another, directly or indirectly, to any officer of any commercial bank by such bank or on the endorsement, surety, or guaranty of any such officer; provided, that a loan may be made to a corporation of which any officer of a commercial bank, proposing to make such loan, is a minority stockholder, director, officer, agent or employee. Loans to any director, agent or employee other than an officer, or to any firm, copartnership or corporation of which any director, agent or employee other than an officer is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership or corporation on the endorsement, surety, or guaranty of any such director other than an officer, agent or other employee, can be made by any commercial bank; and provided, further, that a loan may be made or a line of credit may be given to any member of an advisory board or body of a commercial bank, not otherwise an officer of such bank, or a loan may be made to any firm, copartnership or corporation of which any member of such advisory board or body is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership, or corporation on the endorsement, surety, or guaranty of any such member of such advisory board or body upon such

Conditions govern-
ing above loans.

conditions as are herein fixed for a loan, directly or indirectly, or a line of credit and the report thereof to any director of such bank. Loans herein authorized can be made only on authorization of or confirmation within thirty days after making such loan, by a majority of all the directors of such bank and the affirmative vote of all directors of such bank present at the meeting authorizing or confirming such loan. Such interested director shall not vote or participate in any manner in the action of the board on such loan; provided, that by and with the consent of the superintendent of banks previously obtained in writing, all directors may vote upon such a loan made by one bank to another bank where the entire capital stock of one is owned by or held in trust for the stockholders of the other bank and where all or a majority of the board of directors of each of said banks are composed of the same persons. The board of directors of any such bank may fix the total amount of credit that may at any one time during the twelve months next succeeding be given to any director, agent, or other employee, other than an officer, or to any firm, copartnership, or corporation in which any director, agent, or other employee other than an officer is a member, stockholder, director, officer, agent or other employee or to any corporation of which any officer of a commercial bank, proposing to fix such total amount of credit, is a minority stockholder, director, officer, agent or employee, and any or all loans made within or up to the total amount of such authorized credit may at any time during said twelve months be renewed from time to time, in whole or in part, by the officers of the bank without any further vote or action on the part of the board of directors. Each such authorization shall be entered upon the records or minutes of said bank. No director shall vote or participate in any manner in such action of the board fixing the total amount of credit that may at any one time be given to himself or to any firm,

Conditions govern-
ing above loans.
(Cont'd.)

copartnership or corporation in which he is a member, stockholder, director, officer, agent or other employee.

Facts concerning such loans to be reported to Supt.

The fact of making such loan, the name of the director authorizing such loan, the name of the director, agent or employee, obtaining such loan, or the name of the firm, copartnership or corporation in which such director, agent or employee is interested, or the name of the corporation, of which any officer of a commercial bank is a minority stockholder, director, officer, agent or employee, obtaining such loan, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor, if any, and the fact of final payment when made shall forthwith be reported in writing by the cashier or secretary of such bank to the superintendent of banks. In case a loan is made to a corporation there shall be reported in the same manner the name of each director and officer of such bank who is a member, stockholder, director, officer or employee of such borrowing corporation and the amount of stock held by him in such borrowing corporation. All the provisions of this section relating to reports shall apply to the granting of credit and all loans made under any credit given and payments made thereon shall also be reported immediately after the same

Provisions of Sec. as to reports apply to granting of credit, etc.

Report to be made of loan without previous authorization.

is made. In case of a loan made without the previous authorization of the directors, the fact of making such loan shall forthwith be reported and the action of the board of directors, in confirming or refusing to confirm such loan within thirty days thereafter, and the fact of final payment when made shall be reported in the same manner as herein required for loans made under previous authorization. Any officer, director, agent, or employee of a commercial bank, who knowingly procures a loan from such commercial bank contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks, as herein

Procuring loan contrary to section, felony.

Penalty for failure to report.

provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the state of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such commercial bank may be members or officers but in which they have no financial interest.

Loans to religious corporations, etc., when section not applicable thereto.

No loan may be made to any corporation, a majority of the stock of which is owned or controlled by any one or more of the directors or officers of such commercial bank, except with the previous consent of the superintendent of banks.

Loans to corporation, where majority stock owned, etc., by directors, etc., of bank—restricted.

Loans may be made to any director, other than an officer, directly or indirectly, or to any agent or employee of a commercial bank, on the security of United States bonds, United States treasury certificates, or interest-bearing notes, or obligations of the United States, or those for which the faith and credit of the United States are pledged for repayment of principal or interest, or those issued under authority of the United States, notwithstanding anything in this section contained, and such loans may be made in the usual manner of making loans in which no director of such bank is interested.

Loan may be made to director (not officer) or agent or employee of comm'l bank, on security of U. S. bonds or obligations.

[Publishers' Note, re Section 83, amended 1919:

The amendment of this section occurs in the last paragraph, and is identical in phrasing with one of the amendments made to Section 65 of the Bank Act; the application here is to commercial banks, while that of Section 65 is to savings banks. The amendment removes the limitation made upon loans granted to directors, agents or employees of a commercial bank on the security of certain obligations of, or issued under the authority of, the United States, as specified in the last paragraph of the section.]

Section 84. No commercial bank shall invest an amount exceeding its paid-up capital and surplus in the

Limited investment permitted in bank premises.

lot and building in which the business of the bank is carried on, furniture and fixtures, vaults and safe deposit vaults and boxes necessary or proper to carry on its banking business; and hereafter the authority of a two-thirds vote of all the directors shall be necessary to authorize the purchase of such lot and building or the construction of such building.

Supt may limit deposits with other commercial bank

Section 85. The superintendent of banks shall have power to limit the amount of funds that may be deposited by any commercial bank with any other commercial bank.

ARTICLE IV.

TRUST COMPANIES.

What constitutes a trust company.

Section 90. Any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population does not exceed one hundred thousand persons and which has a capital of not less than one hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, and any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation

As to trust company having principal place of business in city of population not over 100,000 and paid-in capital of not less than \$100,000 assigned to trust business.

to act as executor, administrator, guardian of estates, assignee, receiver, depository or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population exceeds one hundred thousand persons and which has a capital of at least two hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, may act, or may be appointed by any court to act, in any such capacity in like manner as an individual and when so qualified shall be known as a trust company. Any such trust company may, as provided in this act, accept or receive any deposit of money or personal property authorized, directed or permitted to be made with any such corporation by any court or law of this state, and may accept and execute any trust provided for in this act, or permitted by any law of this state, to be taken, accepted or executed by an individual. Any such trust company, if located in a city the population of which does not exceed one hundred thousand persons must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it and whenever such trust company shall,

As to trust company having principal place of business in city of population exceeding 100,000 and paid-in capital of at least \$200,000 assigned to trust business.

Powers conferred on trust company.

Trust company in city of population not over 100,000 to segregate and apportion capital and surplus as security for performance of private and court trusts, respectively, as specified.

When such trust company under Secs. 96 and 98 makes first additional deposit of securities with State Treasurer, it must set aside additional amounts of paid-up capital, as specified, as additional security for performance of private and court trusts.

Any such trust company, if located in city of population exceeding 100,000, must segregate that portion of capital and surplus assigned to its trust business, and must apportion at least \$100,000 thereof as security for the performance of its private trusts.

Amounts of capital or capital and surplus so apportioned to be treated as separate capital or capital and surplus of each respective class of business, etc.

Where executor, administrator, etc., to qualify by taking oath, etc., or where affidavit required, it shall be sufficient if same be taken or subscribed by president, etc.; such officer to be liable for failure of trust company to perform duties required by law.

under the provision of sections ninety-six and ninety-eight of this act, be required to make the first additional deposit of securities with the state treasurer, such trust company must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all court trusts accepted by it, and any such trust company, if located in a city, the population of which exceeds one hundred thousand persons, must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of such private trusts, nor shall it be prohibited from so doing; and provided, further, that the respective amounts of capital or capital and surplus so apportioned and set aside shall be treated in all respects as the separate capital or capital and surplus of each respective kind or class of business, as though the same were conducted by separate and distinct corporations, and each shall be kept, held, used and disposed of wholly for the exclusive benefit, protection and security of the respective classes of trust business to which the same were respectively so apportioned and set aside. In all cases in which it is required that an executor, administrator, guardian of estates, assignee, receiver, depository or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath be taken and subscribed or such affidavit be made by the president, vice president, secretary, manager, trust officer, assistant trust officer or regularly employed attorney thereof, and such officer or employee shall be liable for the failure of such trust company to perform any of the

duties required by law to be performed by an individual acting in like capacity and subject to like penalties; provided, any such appointment as guardian shall apply to the estate only, and not to the person.

Any trust company upon becoming a member of a federal reserve bank is authorized and empowered:

To continue to administer, execute, enjoy and exercise all court and private trusts as defined in the bank act, powers, rights, privileges, and other fiduciary relations, appointments and business it may have at the time of becoming such trust company member, and also to take, execute and administer all new court and private trusts as defined in said bank act, including the right to the appointment of all fiduciary capacities in which it may be named in wills theretofore and thereafter executed and probated, and other appointments, powers, privileges and business, of every kind and nature, as may be then or thereafter permitted to, but subject to the same requirements and limitations as may be imposed upon any corporation under all of the provisions of the bank act.

Trust company becoming member of Federal Reserve bank authorized to continue to administer, execute and enjoy all fiduciary rights, privileges, etc.; also to take, execute, etc., all new court and private trusts as defined in Act, and other powers, etc., subject to requirements and limitations imposed upon any corporation under Act.

To hold, administer, execute, and in all respects generally handle, manage and dispose of, without charge, restriction, limitation or impairment of any nature, all of its investments, rights, interests, titles to property, contractual, legal and other rights, obligations or liabilities, of every kind or nature, court and private trusts as defined in the bank act, and other powers which it may be then permitted to exercise by law.

A foreign corporation may be authorized to act in this state as trustee for the following purposes:

Foreign corporation authorized to deliver bonds and receive payment or bonds in exchange; to register, redeem and cancel bonds; to pay interest on coupon bonds and cancel interest coupons, and

- (1) To deliver bonds, and receive payment therefor.
- (2) To deliver permanent bonds in exchange for temporary bonds of the same issue.

to act as trustee
under mortgage,
deed of trust, etc.,
securing notes or
bonds issued by any
corporation,—as
specified.

(3) To deliver refunding bonds in exchange for those of a prior issue or issues.

(4) To register bonds, or to exchange registered bonds for coupon bonds, or coupon bonds for registered bonds.

(5) To pay interest on such bonds, and to take up and cancel coupons representing such interest payments.

(6) To redeem and cancel bonds when called for redemption, or to pay and cancel bonds when due.

(7) The certification of registered bonds for the purpose of exchanging registered bonds for coupon bonds.

(8) To act as trustee under any mortgage, deed of trust, or other instrument securing notes or bonds issued by any corporation.

[Publishers' Note, re Section 90, amended 1919:

This amendment, contained in the three paragraphs preceding the final paragraphs relating to foreign corporations acting as trustees, seeks to preserve the continuity of the trust relationships established by existing trust companies when they enter the Federal Reserve system. The amendment is one of precaution, and by common consent is considered to be necessary.]

Court may authorize trustee or other fiduciary to deposit trust fund with trust company, subject to court order.

Section 91. Any court having jurisdiction of any executor, administrator, guardian, assignee, receiver, depository or trustee, upon the application of any such officer or trustee, or upon the application of any person having an interest in the estate or property administered by such officer or trustee, after such notice to the other parties in interest as the court may direct, and after a hearing upon such application, may authorize such officer or trustee to deposit any moneys then in his hands, or which may come into his hands thereafter, until the further order of said court, with any such trust company, and upon deposit of such money, and its receipt and acceptance by such trust company, the said officer or trustee shall be discharged from further care or responsibility therefor. Such deposit shall be paid out only upon the order of said court.

Section 92. Any public administrator may deposit any or all moneys of any estate upon which he is administering, not required for the current expenses of such administration, with any such trust company having its principal place of business in the county, or city and county in which he is acting as such administrator. Any court having jurisdiction of an estate being administered by a public administrator, may direct such administrator to deposit all or any part of the moneys of said estate with any such trust company. Such deposit shall relieve the public administrator from depositing with the county treasurer the moneys so deposited with such trust company. Moneys so deposited by a public administrator may be drawn, upon the order of such administrator, countersigned by a judge of the superior court, when required for the purposes of administration, or otherwise.

Public administrator may deposit estate funds, not required for current expenses, with such trust company.

Court may direct such administrator to make deposit with such trust company.

How such deposit may be withdrawn.

Section 93. Any court having jurisdiction of any estate in process of administration, or any other proceeding, may, on application of any person interested therein, or the person who has been selected by said court, or a judge thereof as executor, administrator, guardian, assignee, receiver, depository or trustee, after such notice to the parties in interest as the court shall direct, or without notice if all parties in interest consent thereto, and a hearing on such application, order any executor, administrator, guardian, assignee, receiver, depository or trustee so selected or appointed, whether such person has duly qualified or not to deposit with any such trust company, for safe-keeping, such portion or all of the personal assets of said estate as the court shall deem proper, and upon such deposit being made, the court shall by an order of record reduce the bond to be given or theretofore given by such officer or trustee, so as to cover only the estate remaining in the hands of said officer or trustee; and the property so deposited shall thereupon be held by such trust company, under the order and direction of said court.

Court may, under specified conditions, order executor, administrator, guardian, trustee, etc., to deposit trust funds, etc., with any such trust company.

Effect of such deposit.

Trust company not
required to give
bond.

Trust company re-
sponsible for invest-
ments.

Trust company to
pay interest on trust
deposits.

Trust company, if
principal place of
business in city of
population not ex-
ceeding 100,000, be-
fore accepting ap-
pointment, etc., to
make specified de-
posits with State
Treasurer to secure
performance of its
court trusts and
private trusts.

As to making first
additional deposit,
under Sec. 98.

Trust company, if
principal place of
business in city of
population exceeding
100,000, to make
specified deposits
with State Treasurer
to secure perform-
ance of its court
trusts and private
trusts.

Section 94. Such trust company shall not be required to give any bond or security in case of any appointment or deposit of moneys or other personal assets hereinbefore provided for, except as provided in this act, but shall be responsible for all investments which shall be made by it of the funds which may be entrusted to it for investment by such court, and shall be liable to the same extent as an individual, and as hereinafter provided.

Section 95. Such trust company shall pay interest upon all moneys so deposited with it at such rate as may be agreed upon at the time of its acceptance of any such deposit, or as shall be provided by the order of court and agreed to by such trust company.

Section 96. Any such trust company, if its principal place of business is situated in a city the population of which does not exceed one hundred thousand persons, before accepting any such appointment or deposit, shall deposit with the state treasurer, as herein provided, at least fifty thousand dollars as security for the faithful performance and execution of all court trusts accepted by it, and shall also deposit with the state treasurer at least fifty thousand dollars as security for the faithful performance and execution of all private trusts accepted by it; and whenever any such trust company shall under the provisions of section ninety-eight of this act be required to make the first additional deposit of securities with the state treasurer such trust company must also deposit with the state treasurer an additional fifty thousand dollars as security for the faithful performance and execution of all private trusts accepted by it; and any trust company if its principal place of business is situated in a city the population of which exceeds one hundred thousand persons, before accepting any such appointment or deposit, shall deposit with the state treasurer, as herein provided, at least one hundred thousand dollars, as security for the faithful performance and execution of

all court trusts accepted by it, and shall also deposit with the state treasurer at least one hundred thousand dollars as security for the faithful performance and execution of all private trusts accepted by it. **Any such deposit may be made either in lawful money of the United States, or in securities of either or any of the following classes:**

Deposit to consist of money or following classes of securities:

(a) Bonds issued by the United States or by this state or by any county, city and county, city or school district of this state, or bonds of any irrigation district such as are legal for investment by savings banks;

(a) Bonds issued by U. S. or by State, or specified subdivisions of State.

(b) Bonds for the payment of which the faith and credit of the United States or of this state are pledged;

(b) Bonds for payment of which credit of U. S. or of State is pledged.

(c) Notes or bonds secured by mortgage or deed of trust constituting a first lien on improved and productive real estate in the State of California; such improved real estate being worth at least double the amount of such lien;

(c) Notes or bonds secured by mortgage on improved Cal. realty, etc.

(d) Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of Chapter VIII of Title II of Part IV of division first of the Civil Code; provided, that such notes or bonds shall constitute, and such mortgage participation certificates shall evidence the ownership of, or participation in, notes or bonds which constitute, a first lien on improved and productive real estate in the State of California, such improved real estate being worth at least double the amount of such lien.

(d) Notes or bonds secured by mortgage or deed of trust, payment of which guaranteed by mortgage-insurance policy and mortgage-participation certificate issued pursuant to Civil Code, etc.

Such money or securities shall be first approved by the superintendent of banks and, upon his written order, deposited with the state treasurer for the respective purposes herein specified, and said treasurer shall give his receipt therefor, and thereafter, subject to the provisions

Such money or security to be first approved by Supt.

State Treasurer to hold deposits separately, for benefit of beneficiaries, etc., and State to be responsible for deposits.

Securities may, with approval of Supt., be withdrawn or exchanged.

Trust company to receive interest and dividends on securities deposited.

Said securities and money subject to sale and transfer, and disposal of proceeds, only on court order, etc.

of this act, shall hold such deposits of money or securities separately, each for the sole benefit of the beneficiaries of the class of trust business, for the security and protection of which the same was deposited, and said treasurer shall give his receipt therefor and the state shall be responsible for the custody and safe return of any money or securities so deposited. Said securities or money so deposited may with the approval of the superintendent of banks, be withdrawn or exchanged from time to time for other like securities, or lawful money, receivable as aforesaid, and so long as the trust company so depositing said money or securities shall continue solvent, it shall have the right and shall be permitted by the state treasurer to receive the interest and dividends on any securities so deposited. Said securities and money shall be subject to sale and transfer, and to the disposal of the proceeds by said state treasurer, only on the order of a court of competent jurisdiction and for the benefit respectively of the beneficiaries of that class of trust business for the security and protection of which the same were deposited.

[Publishers' Note, re Section 96:

This section remains unchanged. With reference to the "Notes or bonds secured by mortgage or deed of trust payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company" in accordance with specified provisions of the Civil Code, see Appendix for provisions of the Civil Code referred to.]

Trust company having capital and surplus of \$200,000 or more apportioned as security for performance of court trusts and wholly or in part invested in its business premises, may be permitted by Supt. to mortgage same to State Treasurer, as part of deposit.

Section 97. Any such trust company, having a capital and surplus of two hundred thousand dollars or more apportioned and set aside as security for the faithful performance and execution of all court trusts accepted by it, as provided in this act, and which is wholly or in part invested in the lot and building in which its business is carried on, may be permitted by the superintendent of banks to mortgage such lot and building to the state treasurer for such sum, up to its full market value, as the superintendent of banks may determine, and such mortgage may be deposited with said treasurer, and when so deposited it shall be included in the amount of securities herein required to be deposited with said treasurer as

security for the faithful performance of all such court trusts.

Section 98. Whenever any trust company, the principal place of business of which is located in a city the population of which does not exceed one hundred thousand persons, receives from court trusts accepted by it, trust funds, as herein defined, to the amount of five hundred thousand dollars, it shall forthwith notify in writing the superintendent of banks of such fact, and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and whenever any trust company receives from court trusts such funds to the amount of one million dollars it shall further notify in writing the superintendent of banks of such fact and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and for each additional five hundred thousand dollars of such trust funds thereafter received by any trust company from court trusts a similar notification in writing shall forthwith be given to the superintendent of banks, and a further deposit in the amount of twenty-five thousand dollars of such money or securities, or of securities provided for in section ninety-seven of this act likewise approved, shall be made, within thirty days thereafter, by such trust company with said state treasurer, until five hundred thousand dollars of such securities have been so deposited. The treasurer shall give his receipt for any money or securities so deposited and each and all of such deposits of money or securities, shall be held by said state treasurer for the sole benefit of the beneficiaries of the class of business for the security and protection of which

When trust company whose principal place of business is in city of population not exceeding 100,000 receives from court trusts trust funds, in amounts as specified, respectively, such company in each case to notify Supt. and thereafter to deposit additional security with State Treasurer, to be held for the sole benefit of the beneficiaries, as specified.

State to be responsible for such deposits.

"Trust funds" defined.

Trust company failing to comply with Sec. to forfeit to State \$100 a day.

Trust company entitled to withdraw from State Treasurer amount of securities in excess of requirements of Act.

Validity of acts or proceedings by trust company in administration of trusts not affected or impaired by neglect or failure of trust company or any officer, etc., to comply with Act, etc.

same were deposited. The state shall be responsible for the custody and safe return of any money or securities so deposited with said state treasurer. The term "trust funds" when used in this section shall be deemed to mean and shall mean personal property and cash, whether received with the original trust property or as rent, income or proceeds thereof, or otherwise, in connection with the trust, and shall not be deemed to include and shall not include real property. Any trust company failing to comply with the provisions of this section shall forfeit to the State of California one hundred dollars a day for each day during which such failure or default shall continue. Upon making a request in writing to the superintendent of banks, any such trust company shall be entitled to withdraw from the state treasurer, from time to time, a sufficient amount of such securities so that at all times the amount of such securities so deposited shall conform to the requirements of this act, and so that at no time shall such trust company be required to have on deposit with the state treasurer an amount of securities in excess of the requirements of this act. Upon receiving such request in writing, and satisfactory proof of the facts warranting such withdrawal, it shall be the duty of the superintendent of banks to forthwith deliver to the state treasurer a written order directing the withdrawal of said securities so as to conform with the provisions of this section, and it shall be the duty of the state treasurer to comply with such written order. The validity or legality of any act or proceeding done or taken by any such trust company, relating to or in connection with the administration of any such trusts, shall not be affected or impaired by the neglect or failure of such trust company, or of any officer or employee thereof, to comply with any of the provisions of this act, but all such acts and proceedings done or taken prior to the revocation of its certificate of authority to do such business by the superintendent of banks, under the provisions of this act, or

the revocation by any court or judge thereof of the appointment, order or decree theretofore entered in such trust matter shall be as valid and effective for all purposes as if any such neglect or failure had not occurred.

Section 99. When any part of the securities so deposited with the state treasurer consists of notes or bonds secured by mortgage or deed of trust, it shall be accompanied by a registrar of titles' certificates as to the condition of the title if the notes or bonds are secured by mortgages covering property which has been brought under the operation of the land title law, commonly called the Torrens title law, or a policy of mortgage insurance, or a complete abstract of title or an unlimited certificate of title or a policy of title insurance prepared or issued by a person, company or corporation designated or approved by the superintendent of banks and authorized by law or otherwise found by the superintendent of banks to be competent to issue such evidence of title, which shall be examined and approved by or under the direction of said superintendent of banks. The fees for an examination of such evidence of title by council to be paid by the trust company making the deposit shall not exceed twenty dollars for each title examined, and the fee for each appraiser not exceeding two, shall not exceed five dollars for each mortgage or deed of trust.

When part of deposit consists of notes, bonds or participation certificates secured by mortgage, etc., same to be accompanied by policy of mortgage insurance, or abstract of title, etc.

Abstracts and policies to be examined and approved under direction of Supt.

Fees.

(Section 100. Repealed 1913.)

Section 101. For the purposes of this act, all trusts permitted to be accepted or executed by any such trust company, under any provision of this act are hereby classified and defined as either:

Classification of trusts.

- (a) Court trusts; or
- (b) Private trusts.

A court trust is one in which any such trust company acts under appointment, order or decree of any court,

"Court trust" defined.

as executor, administrator, guardian, assignee, receiver, depository or trustee, or in which it receives on deposit from a public administrator, under any provision of this act, or from any executor, administrator, guardian, assignee, receiver, depository or trustee, under any order or decree of any court, money or property.

"Private trust"
defined.

Private trust may be
subjected to pro-
visions of Bank Act
relating to court
trusts—by the per-
sons, and under the
conditions, specified
in Sec.

Any other trust is a private trust; provided, that the creator of any private trust of which a trust company shall be made, or at any time come to be, the trustee, may, at the time of the creation of such trust or the creator of any such private trust, or his successors in interest, and the beneficiaries thereof may, at any time, by their joint consent, direct that such trust shall be subject to and entitled to the benefit of all of the provisions of this act relating to court trusts and thereafter such trust shall for all the purposes of this act be deemed to be a court trust and wherever in this act the words "court trust" are used they shall be deemed to include private trusts which are subject to supervision except in so far as any of the provisions of this act relating to court trusts may, by their nature, be inapplicable to such private trust. Such direction shall be in writing addressed to the trustee and a copy thereof, certified by the trustee, delivered to the superintendent of banks.

Inspection and super-
vision by Supt.
covers court trusts,
also private trusts
when subjected to
Act.

In case such direction shall be made after the acceptance of the trust, the trustee shall have the right to resign as such and a new trustee shall be appointed as provided in the trust instrument or by law. The inspection and supervision of the superintendent of banks shall extend only to court trusts as herein defined and to private trusts subjected to the provisions of this act relating to court trusts as above provided.

Private trusts, ex-
cept as in Sec. pro-
vided, not subject to
supervision of Supt.

Private trusts, except as in this section provided, shall not be subject to the inspection or supervision of the superintendent of banks, his attorneys, examiners or other assistants.

In making the reports to the superintendent of banks required by this act, every trust company shall, in addition to the other facts to be reported by it, furnish only a list and brief description of the court trusts and private trusts, which are subject to supervision, held by it, the source of appointment thereto, the authority by which the appointment or deposit was made, and the amount of real or personal property held by such trust company by virtue thereof.

Trust company, in making reports to Supt., to furnish specified information as to its Court trusts and private trusts subject to supervision.

Nothing in this act contained shall make it unlawful for any person or corporation not subject to the supervision of the superintendent of banks to engage in the business of receiving and holding in escrow money or its equivalent pending investment in real estate or securities for or on account of his or its principal, or of acting as trustee under deeds of trust given solely for the purpose of securing obligations for the repayment of money, other than corporation bonds.

When person or corporation, not a trust company, may hold money in escrow or act as trustee.

Section 102. Any corporation which desires to withdraw from and discontinue doing a trust business shall furnish to the superintendent of banks satisfactory evidence of its release and discharge from all the obligations and trusts hereinbefore provided for, and thereupon the superintendent of banks shall revoke his certificate of authority to do a trust business theretofore issued to such corporation, and the state treasurer shall return to said corporation all the securities deposited by such corporation and shall cancel any mortgage made by such corporation to said state treasurer as a part of such securities, and thereafter such corporation shall not be permitted to use and shall not use the word "trust" in its corporate name or in connection with its business.

Upon corporation which desires to discontinue trust business, furnishing evidence of release and discharge from all obligations and trusts, Supt. shall revoke certificate of authority to do trust business and State Treasurer shall return deposits, etc.

Section 103. Any trust company exercising the powers and performing the duties provided for in this act, shall, except as herein otherwise provided, keep inviolate all communications and writings made to or by said

Private trusts confidential.

Who entitled to
knowledge of writ-
ings, etc.

trustee touching the existence, condition, management and administration of any private trust confided to it; and no creditor or stockholder of any such trust company shall be entitled to disclosure or knowledge of any such communication or writing; provided, however, that the president, vice-president, manager, trust officer, secretary or regularly employed attorney of any such trust company shall be entitled to knowledge of any such communication or writing; and provided further, that in any suit or proceeding touching the existence, condition, management or administration of any such trust, the court wherein the same is pending may require disclosure of any such communication or writing.

(Section 104. Repealed 1913.)

Investment of capital, surplus and trust funds by trust company.

Section 105. Every trust company shall, except as otherwise provided by law, invest its capital and surplus and any trust funds received by it in connection with its trust business, in accordance with the laws relative to the investment or loan of funds deposited with savings banks, unless a specific agreement to the contrary is made between the trust company and the party creating the trust, or unless it is otherwise ordered by the court, in connection with any court trust.

Trust company, to do departmental business, also must have capital specified by Sec. 23.

Section 106. Any such trust company desiring to do, or doing, a commercial banking business or a savings bank business, or both, in addition to its trust business shall have actually paid up, in cash, the amount of capital provided in section twenty-three of this act.

Title insurance company authorized to do, or doing, trust business, shall comply with specified requirements.

Any title insurance company authorized by its articles of incorporation to do, or doing a trust business, in addition to its title insurance business, shall comply with all the requirements of any law governing trust companies, and shall have a capital stock actually paid in, in cash, of not less than two hundred thousand dollars, and in addition thereto, the capital stock required by law for doing

a title insurance business. Such capital for each such department or class of business shall be increased from time to time in the same manner and to the same extent as though each such department or class of business was conducted by a separate bank, trust company or title insurance company, instead of as separate departments or classes of business. Any trust company and any title insurance company doing a departmental business as above provided shall comply with the provisions of this act governing each of such departments and with the provisions of any law governing each such class of business as to its deposits, reserve, surplus, investments and loans.

Trust company and title insurance company doing departmental business to comply with departmental provisions of Act, etc.

Section 107. Any corporation doing a departmental business as a title insurance company and as a trust company, shall, as to its trust department, be subject to the supervision and inspection of the superintendent of banks, and as to its trust department must make all reports to the superintendent of banks required to be made by trust companies by the provisions of this act, and as to its trust department such corporation shall also be subject to, and shall have the benefit of all other provisions and requirements of this act applicable to trust companies, and shall also be subject to and shall have the benefit of all of the banking laws and rules and regulations of the banking department of this state applicable to trust companies. The proportionate part of the state banking fund provided for by section one hundred and twenty-three of this act, that shall be payable by such corporation, shall be based on the amount of capital and surplus of such corporation apportioned to its trust department.

Further provisions affecting last-mentioned company.

Proportionate part of State banking fund payable by such corporation, etc.

ARTICLE V.

STATE BANKING DEPARTMENT.

State Banking Department created.
Superintendent's appointment, tenure, salary, oath and bond.

Section 120. There is hereby created a state banking department. The chief officer of such department shall be the superintendent thereof, and be known as the superintendent of banks. He shall be appointed by the governor, and shall hold office at the pleasure of the governor. He shall not, either directly or indirectly, be interested in any commercial bank, savings bank or trust company, or as an individual banker. He shall receive an annual salary of ten thousand dollars, to be paid monthly out of the state treasury on a warrant of the controller. He shall, within fifteen days from the time of notice of his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state, and execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two or more sureties to be approved by the governor of the state, conditioned for the faithful discharge of the duties of his office.

Superintendent to employ assistants:
Their qualification, duties and compensation.

Section 121. The superintendent of banks shall employ a chief deputy, attorney and such examiners and other assistants as he may need to discharge in a proper manner the duties imposed upon him by law, none of which examiners or assistants or attorney shall be interested in any bank in this state as director, stockholder, officer or employee, and they shall perform such duties as he shall assign to them. He shall fix the compensation of the chief deputy, attorney, examiners and other assistants, which compensation shall be paid monthly on his certificate and on the warrant of the controller out of the state treasury. The chief deputy shall within fifteen days from the time of his appointment take and subscribe to the constitutional oath of office and file the same in

Oath and qualification of chief deputy.

the office of the secretary of state. No person shall be appointed a chief deputy who has not had at least three years' active banking experience, either as an executive officer or employee of some bank in this state. In case of the absence or inability to act, or vacancy in the office of the superintendent of banks for thirty consecutive days, the chief deputy shall execute to the people of the state a bond in the penal sum of fifty thousand dollars, with corporate surety or two sureties to be approved by the controller and treasurer of the state, conditioned for the faithful discharge of the duties of the superintendent while such deputy acts as superintendent, and upon filing such bond such deputy shall have all the power and duties of superintendent of banks, until the inability of the superintendent shall be removed, or until a new superintendent of banks shall have been appointed by the governor. No superintendent of banks, chief deputy, or bank examiner, shall be or shall become indebted, directly or indirectly, either as borrower, endorser, surety, or guarantor, to any bank under his supervision or subject to his examination.

During absence or inability of Superintendent, chief deputy to act, upon giving bond.

Superintendent, chief deputy or examiner not to be obligated to any bank.

Section 122. The superintendent of banks shall have his principal office in the city of San Francisco, and may also have suitable rooms in the city of Los Angeles, wherein to conduct the business of the state banking department. The superintendent shall, from time to time, obtain the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of such business; the expense of which shall be paid out of the state treasury on the certificate of the superintendent and the warrant of the controller.

Offices of Superintendent in San Francisco and Los Angeles.

Section 123. A fund is hereby created to be known as the state banking fund, and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, ex-

State banking fund created, out of which expenses of banking department to be paid.

Each bank to pay annually its share of \$110,000, pro-rated according to capital and surplus.

Supt. may, at discretion, collect less sum, if same sufficient to pay expenses.

Control and disposition of State banking fund.

Supt. may retain control of \$2,000, to be used as revolving fund for benefit of Dept., etc.

Penalty for non-payment by bank of pro-rata of expense.

aminers and other assistants, traveling expenses, furnishing of rooms and rent. Each bank shall pay annually its share of one hundred and ten thousand dollars, to be determined by the proportion which the capital and surplus which shall include all reserve and contingent funds, of any incorporated bank or the surplus, reserve and contingent funds of any bank organized without a capital stock bear to the capital, surplus, reserve and contingent funds in the aggregate of all such banks receiving certificates of authorization from the superintendent of banks, as shown by the last report of such bank to the superintendent of banks; provided, that the superintendent of banks may, in any fiscal year and in the exercise of his discretion, collect from each bank a less sum to be determined by the proportion established in this section, if such less sum be sufficient to pay all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, examiners and other assistants, traveling expenses, furnishing of rooms and rent. All moneys collected or received by the superintendent of banks, under and by virtue of the provisions of this act, shall be by him delivered to the treasurer of the state, who shall deposit the same to the credit of said banking fund, and the unexpended balance of all moneys heretofore paid into the state treasury by any of the bank commissioners or the superintendent of banks, shall be retained and become a part of said fund; provided, however, that the superintendent shall have authority to retain in his possession and under his control the sum of two thousand dollars to be used by him as a revolving fund for the benefit of the state banking department until the end of the fiscal year, at which time he shall make full settlement with the treasurer of the state. If any such bank shall fail to pay such charges as are herein

required, the superintendent shall forthwith cancel the certificate of said bank.

[Publishers' Note, re Section 123, amended 1919:

This amendment increases the appropriation required for the conduct of the State Banking Department to \$110,000 a year, or as much less as may be necessary properly to administer the banks through the agencies of supervision and visitation, and also permits an increase in the revolving fund which is directly under authority of the Superintendent of Banks from \$500 to \$2000. The consensus of opinion of both the bankers and the State Banking Department is that the amendments are necessary for a proper government of the banks. The banks of this state have expanded enormously within the last few years in assets and liabilities, and the duties involved in their supervision have become very much greater than they were when the original fund was established.]

Section 124. Every bank and the trust department of every title insurance company doing a trust business, shall be subject to the inspection of the superintendent of banks. The superintendent of banks, the chief deputy, or some competent person or persons to be appointed by the superintendent of banks, to be known as examiners, shall visit and examine every bank at least once each fiscal year. On every such examination inquiries shall be made by him as to the condition and resources of the bank, the mode of conducting and managing its affairs, the action of its directors, the investment and disposition of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held and whether the requirements of its articles of incorporation and the law have been complied with in the administration of its affairs, and as to such other matters as the superintendent may prescribe. Whenever, in the judgment of the superintendent of banks, the condition of any bank renders it necessary or expedient to make an extra examination or to devote any extraordinary attention to its affairs the superintendent of banks shall have authority to make any and all necessary extra examinations and to devote any necessary extra attention to the conduct of its affairs; and such bank shall pay for all such extra services rendered by the superintendent of banks at a price to be fixed by the superintendent of banks but not to exceed twenty dollars per day for the examination of the principal office of such bank and twenty dollars a day for the examination of

Every bank, and trust dept. of title insurance company doing trust business, to be subject to inspection of Supt.

Supt. or other examiners as specified, to examine every bank at least once a year.

What such examination shall cover.

Supt. may make extra examinations for which bank shall pay \$20 per day for each bank and each branch.

Supt. may examine
California agency of
foreign bank.

each branch office of each bank. The superintendent of banks shall also have power to examine, or cause to be examined, every agency located in this state of any foreign bank or banking corporation, for the purpose of ascertaining whether it has complied with the laws of this state, and for such other purposes and as to such other matters as the superintendent may prescribe. The

On examination
Supt. may administer
oath and compel at-
tendance of wit-
nesses.

superintendent, chief deputy, and every such examiner shall have the power to administer an oath to any person whose testimony he may require on the examination of any bank, or on the examination of any agency of any foreign bank or banking corporation, and to compel appearance and attendance of any such person for the purpose of any such examination. When a bank shall have

Examiner to report
doubtful securities
to Supt.

been examined by any examiner, and he finds securities therein which are, in his judgment, of doubtful value, he shall report the same to the superintendent of banks, who thereupon shall be authorized to employ appraisers at the expense of such bank to appraise said securities, at a compensation to be fixed by the superintendent of

Supt. shall provide
auditor, at bank's
expense, when bank
requests.

banks. The superintendent of banks shall, whenever required to do so by any bank, provide an auditor to make an audit of the affairs of such bank. The compensation for making such audit shall be paid by the

Supt. not to examine
private trust or title
insurance business,
of corporation doing
trust business.

bank direct to the person making the audit. Nothing herein shall be deemed to authorize or require the superintendent of banks to inspect or supervise the private trust business or title insurance business of any corporation doing a trust business.

[Publishers' Note, re Section 124, amended 1919:

This amendment provides, in substance, that whenever the Superintendent of Banks may deem that a bank requires extraordinary or extra attention and examination, he may have authority to charge at the rate of \$20 per day for such examination for the main office and each branch of the institution. He was previously restricted to a charge of \$20 a day in an extraordinary examination of a bank, irrespective of the number of its branch offices. The extension of branch offices has made the amendment necessary.]

Oath of examiners.

Section 125. Every examiner appointed by the superintendent of banks shall, before entering upon the discharge of his duties, take the constitutional oath of office

and cause the same to be filed in the office of the secretary of state. No such examiner shall be appointed receiver of any bank whose books, papers and affairs he shall have examined pursuant to his appointment.

No examiner to be appointed receiver of bank examined by him.

Section 126. If the chief deputy or any examiner shall have knowledge of the insolvency or unsafe condition of any bank mentioned in this act, and that it is unsafe or inexpedient to permit said bank to continue business, and shall neglect to forthwith report such fact in writing over his signature to the superintendent of banks, he shall be guilty of a felony.

Neglect of chief deputy or examiner to report known unsafe conditions made felony.

Section 127. When any number of persons desire to organize a corporation to conduct any one or more or all of the businesses mentioned in divisions (a), (b), and (c) of section two of this act or to circulate stock subscription lists for any such proposed corporation the previous written consent of the superintendent of banks to such proposed organization must be obtained. No bank shall transact any business in this state without the written approval of the superintendent of banks, and without his written certificate stating that it has complied with the provisions of this act, and all the requirements of law, and that it is authorized to transact, within this state, the business specified therein; which certificate may be withheld by the superintendent of banks whenever he has reason to believe that the bank is being formed for any other than the legitimate objects contemplated by this act, or whenever he has reason to believe that the public convenience and advantage will not be promoted by the opening of such bank, or whenever he has reason to believe that the corporate name assumed by such bank resembles, so closely as to be likely to cause confusion, the name of any other bank previously formed under the laws of this state. Before issuing such certificate the superintendent of banks shall examine, or cause an examination to be made, in order to ascertain whether the

Written consent of Supt. prerequisite to organizing a bank.

Bank must have a certificate from Supt. before transacting business.

Certificate may be withheld by Supt. under certain conditions.

Certificate not to be issued before examination and compliance with requirements as to capital and surplus.

requisite capital of such bank has been paid up in cash or the requisite reserve or surplus fund has been accumulated. The superintendent of banks shall not authorize such bank to commence business until it appears from such examination, or other evidence satisfactory to him, that the requisite capital has been, in good faith, subscribed and paid in, in cash, or that the requisite surplus or reserve fund has been accumulated or paid in, in cash, and until said bank shall have paid a fee of fifty dollars for each department to be operated by said bank.

Fees payable.

[Publishers' Note, re Section 127:

This section remains unchanged. See Appendix, for copy of Section 1278, Code of Civil Procedure, providing, in effect, that a banking corporation desiring to change its corporate name shall file in court a certificate of the Superintendent of Banks that the name desired does not too closely resemble that of any other bank.]

When articles filed with Secy. of State and application made for certificate, Supt. to ascertain fitness of persons named as stockholders, etc.

Section 128. When the certified copy of articles of incorporation of any bank shall have been filed with the secretary of state, and application made for the issuance of a certificate to do business as a bank, the superintendent of banks, provided he has not withheld granting his certificate for any of the reasons set forth in section one hundred twenty-seven hereof, shall ascertain, from the best sources of information at his command, whether the character and general fitness of the persons named as stockholders are such as to command the confidence of the community in which such bank is proposed to be located, and, if so satisfied, he shall within sixty days after such application has been made to him, issue, under his hand and official seal, the certificate of authorization required by this act. The superintendent of banks shall file a duplicate of such certificate in his own office.

Departmental bank must make and publish separate financial reports of each department.

Section 129. Every bank doing a departmental business shall render to the superintendent of banks for each department conducted by it, a separate report showing in detail as required by section one hundred thirty of this act, the actual financial condition of such department and shall at the time of furnishing said report separately

publish the statement for each department as provided in section one hundred thirty-two of this act.

Section 130. Every bank, organized under the laws of this state, shall, whenever required by the superintendent of banks, make a report in writing to him, verified by the oath of its president and its secretary or cashier, or two principal officers. Such report shall show the actual financial condition of the bank making the report, at the close of any past day designated by the superintendent, and shall specify the following:

Verified reports to be made by bank whenever required by Superintendent.

What such reports must show.

1. The amount of its capital stock and the number of shares into which it is divided.

2. The names of the directors and the number of shares of stock held by each.

3. The total amount of capital actually paid in, in cash, and the total amount of surplus, reserve and any other funds.

4. The total amount due the depositors.

5. The total amount and character of any other liabilities it may have.

6. The amount at which the lot and building occupied by the bank for the transaction of its regular business stands debited on its books; also the market value of all other real estate held, whether acquired in settlement of loans or otherwise, the original cost to the bank, the date when acquired, the amount at which it stands debited on the bank books, in what counties situated, and in what name the title is vested, if not in the name of the bank itself.

7. The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also specifying the name of the person in whose name the property is held in trust or as security, in case it is held

What such bank re-
ports must show—
cont'd. in any name other than that of the bank and the instru-
ment creating the security does not itself disclose the
name of the bank.

8. The amount invested in bonds, designating the name and amount of each particular kind.

9. The amount loaned on stocks and bonds, designating each particular class and the amount thereof.

10. The amount of money loaned on other securities, with a particular designation of each class and the amount loaned on each.

11. The amount and kind of money on hand or deposited in any other bank or place, with the name of the place where deposited and the amount in each place.

12. Any other property held, or any amount of money loaned, deposited, invested or placed, not otherwise herein enumerated, and the place where situate and the value of said property, and the amount so loaned, deposited or placed.

13. The date on which examination of the bank was last made by its board of directors and the date on which report of such examination was filed, as required by section one hundred thirty-nine of this act.

14. The outstanding and unpaid amounts of any loans made by the bank, which under the provisions of either section sixty-five or eighty-three of this act are required to be reported to the superintendent of banks.

15. Any overdrafts and any loans, investments, acts or omissions violative of or not in conformity with any provision of this act which may be specifically called for.

California branch of
foreign bank to ren-
der verified report to
Supt.

Every foreign corporation transacting the business of banking in this state shall make the report herein required as far as such report may relate to the affairs of

such corporation in this state, and every foreign corporation must particularly render the report required by subdivisions three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, and fifteen of this section. Such report shall be made in writing and verified by the oath of one of its duly authorized officers or managers residing in this state. The oaths of the officers and the statements above required shall state that they and each of them have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true. Any wilful false statement in the premises shall be perjury and shall be punished as such.

Section 130a. In addition to the information obtained from the report required by the provisions of section one hundred thirty of this act, the superintendent of banks shall also have the power to require any bank to furnish a special report in writing, verified as required by section one hundred thirty of this act, whenever in his judgment such special report is necessary to inform him fully of the actual financial condition and affairs of such bank. Any wilful false statement in the premises shall be perjury and shall be punished as such.

Supt. may require any bank to furnish additional verified report.

Wilful false statement in report deemed perjury.

Section 131. The superintendent of banks shall call for the reports specified by section one hundred thirty of this act at least three times each year. The "past day designated by the superintendent" of banks under the provisions of section one hundred thirty of this act shall for at least three times be the day designated by the comptroller of currency of the United States for reports of national banking associations.

Supt. to call for reports at least three times a year.

[Publishers' Note, re Section 131, amended 1919:

This amendment is designed particularly to make coincident at least three of the called reports demanded by the Superintendent of Banks with the called reports demanded by the Comptroller of the Currency. It is intended to give wider, more critical and more intimate information, from the point of view of both State and National supervision.]

Section 132. At the time of furnishing such report to the superintendent of banks, every bank shall also

Bank shall publish condensed statement of financial condition at time of furnishing above report.

What published
statement shall show.

publish a condensed statement of its financial condition, at least once, in some newspaper of general circulation, published in the city or town where its principal place of business is located, and, if no paper is published in such town, then in some newspaper of general circulation in the county where its principal place of business is located. Such published statement shall show the total amount of loans, the total amount of overdrafts, the total amount invested in bonds and other securities, the total amount due from banks, the total amount of checks and other cash items, the total amount of cash on hand, capital paid in, surplus funds; undivided profits, less expenses and taxes paid; due to other banks and bankers, due to trust companies and savings banks; individual deposits subject to checks; demand certificates of deposit; time deposits; certified checks; cashier's checks outstanding; and such other items as will show the actual financial condition of the bank making the report.

In case Supt. finds
impairment of capital,
he shall require
bank to make good
the deficiency within
60 days.

Section 133. Whenever it shall appear from the report of any bank, or the superintendent of banks shall have reason to believe that the capital of any bank is impaired or reduced below the amount required by law, it shall be the duty of the superintendent of banks and he shall have the power to examine said bank and ascertain the facts, and in case he finds such impairment or reduction of capital, he shall require such bank to make good the deficiency so appearing within sixty days after the date of such requisition. The directors of every such bank, upon which such requisition shall have been made, shall levy an assessment upon the stock thereof to repair such deficiency, and shall cause notice of such requisition to be given to each stockholder of the bank and of the amount of the assessment which he must pay for the purpose of making good such deficiency, by a written or printed notice mailed to such stockholder at his last known address or served personally upon him. If any stockholder

Directors of bank to
levy assessment to
repair deficiency.

Stock assessments to
make good impaired
capital.

shall refuse or neglect to pay the assessment specified in such notice within thirty days from the date of mailing or serving such notice as aforesaid, the directors of such bank shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving a previous notice of such sale for ten days in a newspaper of general circulation published in the county where the principal place of business of such bank is located, and a copy of such notice of sale shall also be served on the owner of such stock by being served personally on him or by mailing to his last known address ten days before the day fixed for such sale; or such stock may be sold at private sale and without such public notice; provided, however, that before making such private sale thereof an offer in writing shall first be obtained and a copy thereof served upon the owner of record of the stock sought to be sold, either personally or by mailing a copy of such offer to his last known address, and if, after service of such offer, such owner shall still refuse or neglect to pay such assessment within two weeks from the time of the service of such offer, the said directors may accept such offer and sell such stock to the person making such offer, or to any other person or persons making a larger offer than the amount named in the offer submitted to the stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the superintendent of banks in his determination and requisition as to said assessment, nor for less than the amount of said assessment so called for and the expense of sale. Out of the avails of the stock so sold, the directors shall pay the amount of assessment levied thereon, and the necessary costs of sale, and the balance, if any, shall be paid to the person or persons whose stock has thus been sold. A sale of stock as herein provided shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold,

Procedure for levying and collecting assessment on bank stock.

Directors may sell assessed stock at private sale.

Method of making such private sale.

Application of proceeds of sale.

Effect of sale, upon stock sold.

and shall make the same null and void, and a new certificate shall be issued by the bank to the purchaser thereof.

Supt. may order bank to discontinue violations of its articles or State law, etc.

Section 134. If it shall appear to the superintendent of banks that any bank has violated or failed to comply with the provisions of its articles of incorporation, or any law of this state, he may, by an order under his hand and official seal, which seal must be adopted by him, addressed to such bank, direct such bank to discontinue such violation and to comply with the law; or, if it shall appear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, he may, in like manner direct the discontinuance of any such unsafe or injurious practices. Such order shall require such bank to show cause, before the superintendent of banks, at a time and place to be fixed by him, why said order should not be observed. If upon such hearing it shall appear to the superintendent of banks that such bank is conducting business in an unsafe or injurious manner, or is violating or failing to comply with the provisions of its articles of incorporation, or any law of this state, then the superintendent of banks shall make such order final, and such bank shall immediately comply with such order made by the superintendent of banks. Such bank shall have ten days after any such order is made final in which suit may be commenced to restrain enforcement of such order, and unless such action be so commenced and enforcement of said order be enjoined within ten days, by the court in which such suit is brought, then such bank shall comply with such order.

Such order shall require banks to show cause why order shall not be made final.

If such order is made final, bank has 10 days to secure injunction.

Supt. may call meeting of stockholders of bank.

Section 135. Whenever the superintendent of banks shall deem it expedient he may call a meeting of the stockholders of any bank organized under the laws of this state, by a personal notice of such meeting for fifteen days previous thereto. All necessary expense incurred in the serving of such notice shall be borne by the bank whose stockholders are required to convene.

Section 135a. If the capital of any bank shall be impaired, or if any bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of such bank, or if such bank shall violate the provisions of its articles of incorporation, or any law of this state, or if such bank shall suspend payment of its obligations, or if such bank shall conduct its business in an unsafe or unauthorized manner, or if from any examination or report provided for by this act the superintendent of banks shall conclude that such bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, an action to procure a judgment dissolving such corporation may be maintained by the superintendent of banks.

Involuntary dissolution.

Action by Supt. to dissolve bank having impaired capital, or refusing to submit to examination, or violating law of State, etc.

Section 136. Whenever it shall appear to the superintendent of banks that any bank has violated the provisions of its articles of incorporation or any law of this state, or is conducting its business in an unsafe or unauthorized manner, or if the capital of any bank is impaired, or if any bank shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of any such bank or if any bank shall suspend payment of its obligations, or if from any examination or report provided for by this act the superintendent of banks shall have reason to conclude that such bank is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any bank shall neglect or refuse to observe any order of the superintendent of banks specified in sections one hundred thirty-three or one hundred thirty-four of this act, the superintendent of banks may forthwith take possession of the property and business of such bank and retain such possession until

Supt. may take possession of business and property of such bank until it resumes business or its affairs be finally liquidated.

Procedure to be followed by Supt. in conserving assets and liquidating affairs of such bank.

Bank may resume business with consent of Supt.

By order of court, Supt. may sell bad or doubtful debts, or sue or refrain from suing thereon; may sell real or personal property of such bank, and enforce stockholders' liability.

such bank shall resume business, or its affairs be finally liquidated as herein provided. On taking possession of the property and business of any such bank the superintendent of banks shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals, holding or in possession of any assets of such bank. No bank, trust company, association or individual knowing of such taking possession by the superintendent of banks, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the bank of whose property and business the superintendent of banks shall have taken possession as aforesaid. Such bank may, with the consent of the superintendent of banks, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of any such bank the superintendent of banks shall have authority to collect moneys due to such bank and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The superintendent of banks shall collect all debts due and claims belonging to it, and upon the order of the superior court may sell or compound any bad or doubtful debts. If a purchaser for any bad or doubtful debts can not be obtained and it appears improbable that recovery thereon can be had and that the costs of actions to enforce collection of the same would probably be lost, the court may direct that suits thereon need not be brought. On like order he may sell any real or personal property of such bank on such terms as the court shall direct; and may, if necessary to pay the debts of such bank, enforce the constitutional individual liability of stockholders by action to be brought within three years after the date of his taking possession of the affairs of such bank. The superintendent of banks shall determine the necessity of such action and the amount necessary to

recover from the stockholders to fully pay all liabilities of such bank. Such action may be in equity and against all stockholders upon whom service of process in the State of California can be had, and the court may therein determine and provide for any equities as between the stockholders including the proportions of each stockholder to any surplus of money or assets that may remain after the payment of all liabilities and the expenses of liquidation. The superintendent of banks may also maintain an action against any stockholder residing out of the state or upon whom service of process can not be had within the state, in any court of the United States or of any state or country. Any judgment so obtained by the superintendent of banks against such or any of such stockholders which is of doubtful value may be compromised and compounded by the superintendent of banks on such terms and conditions as the superior court may direct or authorize. The superintendent of banks shall file a notice of pendency of action in the county recorder's office of the county where such action is brought. At any time prior to the trial of any such action, any creditor may serve upon the superintendent of banks and file with the court wherein such action is pending, notice that he elects to maintain an action against the stockholders or any of them, in his individual capacity and thereupon the amount sued for in such action shall be reduced accordingly and such creditor shall not be entitled to share in the proceeds resulting from such action brought by the superintendent of banks. For the purpose of executing and performing any of the powers and duties hereby conferred upon him, the superintendent of banks may, in the name of the delinquent bank or in his own name, prosecute and defend any and all suits and other legal proceedings and may, in the name of the delinquent bank or in his own name as trustee execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary and proper to effectuate any sale of real or personal

Supt. shall file with county recorder notice of pendency of such action.

Creditor may in individual capacity maintain action against stockholders.

Supt. may in name of delinquent bank or in his own name prosecute and defend suits, etc., execute all instruments necessary to effectuate sale of real or personal property or compromise by order of court, etc.

property or sale or compromise or compound authorized by order of the court as herein provided; and any deed or other instrument, executed pursuant to the authority hereby given, shall be valid and effectual for all purposes, as though the same had been executed by the officers of the delinquent bank by authority of its board of directors. In case any of the real property so sold is located in a county other than the county in which the application to the court for leave to sell the same is made, the superintendent of banks shall cause a certified copy of the order authorizing or ratifying such sale to be filed in the office of the recorder of the county in which the said real property is located. The superintendent of banks may, under his hand and official seal, appoint one or more special deputy superintendents of banks, as agent or agents, with the powers specified in the certificate of appointment hereinafter mentioned, to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the superintendent of banks, and a certified copy in the office of the clerk of the county in which the principal office of such bank is located.

Supt. may delegate
duties to deputy.

The superintendent of banks may from time to time, by a certificate of appointment under his hand and official seal, specifying the powers conferred, authorize a special deputy superintendent to perform such duties connected with such liquidation and distribution as the superintendent of banks may deem proper. Such certificate of appointment shall be filed in the office of the superintendent of banks and a certified copy in the office of the clerk of the county in which the principal office of such bank is located. The superintendent of banks may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such bank, and for that purpose may retain such of the officers or employees of

Supt. may employ
such counsel and ex-
pert assistance as
may be necessary in
liquidation.

such bank as he may deem necessary. The superintendent of banks shall require from a special deputy superintendent and from such assistants such security for the faithful discharge of their duties as he may deem proper. The superintendent of banks shall cause notice to be given by advertisement, in such newspapers as he may direct, weekly for three consecutive months, calling on all persons who may have claims against such bank to present the same to the superintendent of banks, and make legal proof thereof at a place and within a time, not earlier than the last day of publication, to be therein specified. The superintendent of banks shall mail a similar notice to all persons whose names appear as creditors upon the books of the bank. If the superintendent of banks doubts the justice and validity of any claim, he may reject the same, and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof shall be filed with the superintendent of banks. Any action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the superintendent of banks equitably applicable thereto. Upon taking possession of the property and assets of any bank, the superintendent of banks shall make an inventory of the assets of such bank in duplicate, one to be filed in the office of the superintendent of banks, and one with the papers in said proceeding in the office of the clerk of the county in which the principal office of such bank is located; upon the expiration of the time fixed for the presentation of claims the superintendent of banks shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the superintendent of banks, and one

Supt. to publish and mail notice to creditors to present and prove claims against bank.

Action upon rejected claim—when must be brought by claimant.

Supt. to make and file inventory of assets.

Supt. to file with county clerk list of claims presented, specifying claims rejected.

with the papers in said proceeding in the office of the clerk of the county in which the principal office of such bank is located. Thereafter he shall make and file in said offices as above provided at least fifteen days before each application to the court for leave to declare a dividend a supplemental list of the claims presented since the last preceding list was filed, including and specifying such claims as have been rejected by him, and in any event he shall make and file as above provided such a list at least once every six months after the filing of the original list, as long as he shall remain in possession of the property and business of any such bank. Such inventory and list of claims shall be open at all reasonable times to inspection. The compensation of the special deputy superintendents, counsel and other employees and assistants, and all expenses of supervision and liquidation, shall be fixed by the superintendent of banks and shall upon the certificate of the superintendent of banks be paid out of the funds of such bank in the hands of the superintendent of banks. All such expenses must be reported by the superintendent of banks to the superior court of the county where the principal place of business of such bank is located and settled by such court upon notice to such bank. The moneys collected by the superintendent of banks shall be from time to time deposited in one or more state banks of deposit, savings banks or trust companies, and, in case of the suspension or insolvency of the depository, such deposit shall be preferred before all other deposits. At any time after the expiration of the date fixed for the presentation of claims the superior court may by order authorize the superintendent of banks to declare out of the funds remaining in his hands after the payment of expenses one or more dividends, and after the expiration of one year from the first publication of notice to creditors he may declare a final dividend, such dividends to be paid to such persons, and in such amounts, and upon such notice, as may be directed

Supplemental lists of claims.

Compensation of special deputies and other employees and all expenses of supervision—how to be fixed, paid and reported.

Moneys collected—how deposited.

Such deposits given preference.

Declaration of partial and final dividends—how made.

by the superior court of the county in which the principal office of such bank is located. Objections to any claim not rejected by the superintendent of banks may be made by any party interested by filing a copy of such objections with the superintendent of banks, who shall present the same to the superior court at the time of the next application to declare a dividend. The court to which such application is made shall thereupon dispose of said objections or may order a reference for that purpose, and should the objections to any claim be sustained by the court or by the referee, such claim shall not be allowed by the superintendent of banks until the claimant shall have established his claim by the judgment of a court of competent jurisdiction. The court must make proper provision for unproved or unclaimed deposits.

Objections by interested party to claims not rejected by Supt. to be heard and disposed of by court or referee.

Court to make proper provision for unproved or unclaimed deposits.

Should any bank at the time the superintendent of banks takes possession of its property and business, have in its possession, as bailee for safekeeping and storage, any jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers or other valuable personal property or should it have rented any vaults, safes or safe deposit boxes or any portion thereof for the storage of property of any kind, the superintendent of banks may at any time thereafter cause to be mailed to the person claiming to be or appearing upon its books to be the owner of such property, or the person in whose name the safe, vault or box stands, a notice in writing in a securely closed, postpaid registered, letter directed to such person at his post-office address as recorded upon its books, notifying such person to remove, within a period fixed by said notice and not less than sixty days from the date thereof, all such personal property and upon the date fixed by said notice, the contract, if any, between such person and bank for the storage of said property or for the use of the said safe, vault or box shall cease and determine, and the amount of the unearned rent or charges,

Bailors of property in delinquent bank to be notified by Supt. to remove property.

If such property not removed within time fixed by notice, Supt. to dispose of same as court may direct.

Supt. may cause any safe, vault or box to be opened and its contents disposed of as specified.

Bank deeming itself aggrieved may enjoin proceedings within ten days after Supt. takes possession.

Hearing to be had and judgment to be entered therein.

Provisions concerning appeal from judgment.

if any, paid by such person shall become a debt of the bank to said person. If the property be not removed within the time fixed by the notice, the superintendent of banks may make such disposition of said property as the superior court, upon application thereto, shall direct. And the superintendent of banks may cause any safe, vault or box to be opened in his presence or in the presence of one of the special deputy superintendents of banks, and of a notary public not an officer or in the employ of the bank or of the superintendent of banks, and the contents thereof, if any, to be sealed up by such notary public in a package upon which such notary public shall distinctly mark the name and address of the person in whose name such safe, vault or box stands upon the books of the bank and shall attach thereto a list and description of the property therein; and the package so sealed and addressed, together with the list and description, may be kept by the superintendent of banks in one of the general safes or boxes of the bank until delivered to the person whose name it bears, or until otherwise disposed of as directed by the court. Whenever any such bank of whose property and business the superintendent of banks has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after such taking possession, apply to the superior court in the county in which the principal office of such bank is located to enjoin further proceedings; and said court, after citing the superintendent of banks to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts may, upon the merits, dismiss such application or enjoin the superintendent of banks from further proceedings, and direct him to surrender such business and property to such bank. An appeal as above provided shall operate as a stay of the judgment of the superior court, and no bond need be given if the appeal be taken by the superintendent of banks; but if the

appeal be taken by such bank, a bond shall be given, as required by section nine hundred forty-three of the Code of Civil Procedure. Whenever the superintendent of banks shall have paid to each and every depositor and creditor of such bank whose claim or claims as such creditor or depositor shall have been duly proved and allowed, the full amount of such claims, and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the superintendent of banks shall call a meeting of the stockholders of such bank giving notice thereof for thirty days in one or more newspapers published in the county where the principal office of such bank is located. At such meeting the stockholders shall determine whether the superintendent of banks shall be continued as liquidator and shall wind up the affairs of such bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination.

After payment of allowed claims, etc., Supt. to call meeting of stockholders to determine whether Supt. shall continue liquidation or agent be elected for that purpose.

Manner of voting at such meeting.

In case it is determined to continue the liquidation under the superintendent of banks, he shall complete the liquidation of the affairs of such bank, and after paying the expenses thereof, shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the superior court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the superintendent of banks a bond to the people of the state in such amount, with such sureties and in such form as

Dissolution.

Supt. shall transfer assets to agent, who shall execute bond.

Agent to convert such assets into cash and account for and distribute property.

Disposition of dividends and unclaimed deposits remaining unpaid six months after order of final distribution.

shall be approved by the superintendent of banks, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the superintendent of banks shall transfer and deliver to such agent or agents all the undivided and uncollected or other assets of such bank then remaining in his hands; and upon such transfer and delivery, the said superintendent of banks shall be discharged from any and all further liability to such bank and its creditors. Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said bank as is herein provided in the case of distribution by the superintendent of banks, except that the expenses thereof shall be subject to the direction and control of a court of record of competent jurisdiction. In case of the death, removal or refusal to act of any such agent or agents, the stockholders, on the same notice, to be given by the superintendent of banks upon proof of such death, removal or refusal to act being filed with him, and by the same vote hereinbefore provided, may elect a successor, who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the superintendent of banks for six months after the order for final distribution shall be by him deposited with the state treasurer in the same manner and subject to the same disposition as provided for in section one thousand two hundred thirty-four of the Code of Civil Procedure. The superintendent of banks may pay over the moneys so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same. In cases of doubt or conflicting claims he may require an order of the superior court authorizing and directing the payment thereof.

[Publishers' Note to Section 136: This section remains unchanged. In connection with the general subject of liquidation of Banks, see, in addition to the following sections, the extract in the Appendix at the end of this Act, Chapter 496, Statutes 1917, General Laws.]

Section 136a. Any bank which has ceased to do a banking business whether through voluntary action on its part or through expiration of its corporate existence, shall immediately liquidate its affairs and any unclaimed deposits or dividends shall be paid into the state treasury in the manner and for the purposes provided in section one hundred thirty-six of this act within six months after the date such bank ceased to conduct a banking business, and in case the superintendent of banks shall have reason to conclude that the liquidation of such bank is not being safely or expeditiously conducted, he may take possession of the property of such bank and liquidate its affairs in the same manner as provided in section one hundred thirty-six of this act. Whenever any bank of whose property the superintendent of banks has taken possession as aforesaid, deems itself aggrieved thereby, it may within the time and in like manner and effect as provided in section one hundred thirty-six of this act apply to the superior court to enjoin further proceedings.

Bank ceasing business shall immediately liquidate.

If liquidation unsafely conducted Supt. may take possession and liquidate.

Bank deeming itself aggrieved by intervention of Supt. may apply for injunction.

Section 136b. In any action or proceeding brought under any provision of this act, exclusive original jurisdiction shall be vested in the superior court of the county in which is located the principal place of business of the bank affected thereby, and all proceedings relating to the same matter, under any provision of this act, including proceedings for liquidation of the affairs of any such bank, shall be filed with and treated as a part of the record in such original proceedings, and all papers relating to any such action or proceeding, including the copy of certificate of appointment of any special deputy and the inventories required to be filed in the matter of any such liquidation, shall be filed with and made a part of the record of such original proceeding, without the payment of any additional fees therefor, and in any such action no damage may be awarded, but the action otherwise shall be tried and determined according to the provisions of the Code of Civil Procedure.

Jurisdiction vested in superior court of county where principal place of business of bank is located.

Voluntary dissolution may be had under provisions of Code of Civil Procedure.

Section 137. 1. Any bank shall have the right, on application of the stockholders or members to apply to the superior court of the county wherein its principal place of business is situated, to dissolve said bank in the manner provided for in title six, part three of the Code of Civil Procedure.

Payment to county treasurer of specified funds by receiver appointed prior to July 1, 1909.

2. At the expiration of four months after the settlement of the final account of the receiver of any bank appointed prior to July 1, 1909, any dividends due depositors, or other creditors, or stockholders of such bank and remaining unpaid or uncalled for and in the hands of such receiver may be paid by him into the treasury of the county in which such bank is situated which money shall be held in the treasury of said county, and at the same time it shall be the duty of such receiver to furnish to the county treasury of said county a list of names of all depositors or other persons to whom such money belongs or who are entitled thereto and thereupon such receiver shall be entitled to his discharge.

Said funds to be paid out on court order.

3. The moneys referred to in subdivision two of this section shall be paid out on the order of the court appointing such receiver.

When such funds escheat to State.

4. All moneys paid under subdivision two of this section, uncalled for within five years after being paid in, shall by operation of law, and without action had, escheat to the state. All moneys held by any county treasurer under subdivision two of this section, when such moneys have escheated to the state as hereinbefore provided, shall be paid by the county treasurer into the state treasury, and thereafter only be drawn out in such manner as may be provided for by law for the estates of deceased persons escheated to this state.

Investment of such funds.

5. The state board of control must invest such moneys in the same manner that the state school land fund is invested as provided by law. But any claimant shall be

entitled to recover as herein provided only the principal so paid into the state treasury.

Section 138. If any bank shall fail to make any report required by the provisions of section one hundred thirty or one hundred thirty a of this act, within ten days from the day designated for the making thereof by the superintendent of banks, or to include therein any matter required by the provisions of either of said sections, it shall forfeit to the people of the state the sum of one hundred dollars for each day that any such report shall be so delayed or withheld by the failure or neglect of such bank.

Penalty for bank failing to make report as required by Sec. 130 or Sec. 130a—to forfeit \$100 per day, etc.

In the event of the failure of any such bank to make any such report required from it, the superintendent of banks may, in his discretion, immediately cause the books, papers and affairs of such bank to be examined at the expense of such bank.

In event of such failure Supt. may make examination at bank's expense.

Section 139. It shall be the duty of the board of directors of every bank to examine fully, or to cause a committee of at least three of its members, none of whom shall be an officer of the bank, to examine fully into the books, papers and affairs of the bank of which they are directors, and particularly into the loans and discounts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any given, in connection therewith, and into such other matters as the superintendent of banks may require; such examination to be made at least once a year, but no such subsequent yearly examinations shall be made within three months of the next preceding examination. Such directors shall have power to employ such assistance in making such examinations as they may deem necessary. Within thirty days after the completion of such examination, a report in writing thereof, sworn to by the directors making the same, shall be made by the board of

Directors to examine bank affairs, loans, discounts, etc.

Directors may employ assistance in making examination.

Sworn report of directors to be made and filed with records of bank.

directors of such bank, and placed on file with the records of said bank, and shall be subject to examination by the superintendent of banks.

What such report shall contain.

Such report shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination, may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and if not, a statement of that fact, and its actual value as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank.

If directors fail to make such examination or report, Supt. may make extra examination at bank's expense.

If the directors of such bank shall fail to make such examination or fail to cause it to be made, or shall fail to file such report of such examination in the manner and within the time specified, the superintendent of banks shall have authority to make or cause to be made an extra examination of such bank, at the expense of such bank.

Whenever the board of directors of any bank may determine by resolution, duly entered in its minutes, that a special examination shall be made or caused to be made by the superintendent of banks in lieu of the examination herein required to be made by the board of directors of such bank, a certified copy of such resolution shall be transmitted to the superintendent of banks,

whereupon it shall be the duty of the superintendent of banks to make or cause to be made a special examination of the affairs of such bank in lieu of the examination of such bank by the board of directors thereof. Such special examination shall be made at such time as the superintendent of banks may determine but in any event such examination shall be made within sixty days after the receipt by the superintendent of banks of the resolution hereinbefore referred to. The cost of making such examination shall be a charge against the bank for which such examination is made.

Upon the completion of such examination the superintendent of banks shall cause a report thereof in writing to be prepared and delivered to the board of directors of such bank at such time as may be fixed by the superintendent of banks, but not later than thirty days after the completion of such examination.

Section 140. The superintendent of banks shall report during the month of October of each year, to the governor, for submission to the next ensuing session of the legislature:

Supt. shall make annual report to Governor.

1. A summary of the state and condition of every bank required to report to him, and from which reports have been received the preceding year, with an abstract of the whole amount of capital returned by them, the whole amount of their debts and liabilities, and the total amount of means and resources, specifying the amount of specie held by them at the time of the last report to him, and such other information in relation to such banks as, in his judgment, may be useful.

Such annual report shall contain:

Summary of general conditions;

2. A statement of all banks authorized by him to do business during the previous year, with their names and locations and dates of incorporation, and particularly designating such as have commenced business during the year.

Statement of new banks;

- Statement of closed banks; 3. A statement of the banks whose business has been closed during the year.
- Desirable amendments to Bank Act; 4. Any amendments to the banking law, which, in his judgment, may be desirable.
- Names and compensation of employees; 5. The names and compensation of all persons employed by him, and the whole amount of the receipts and expenses of the department during the year.
- Data concerning banks in liquidation. 6. The names of banks placed in his hands in process of liquidation, and the amount of dividends paid thereon.
- Number of copies of report printed. Such report, and the usual number of copies for the use of the legislature, shall be printed and in readiness for distribution by the state printer, and one thousand copies shall be printed for the use of the department, the expense of which shall be charged among the general expenses of the department.
- Weekly bulletin to be publicly posted in Supt.'s office. Section 141. 1. The superintendent of banks shall keep in his office, in a place accessible to the general public, a bulletin board upon which he shall cause to be posted at noon on Friday of each week a detailed statement, signed by him or, in case of his absence from San Francisco or inability to act, by the deputy superintendent in charge, giving the following items of general information with regard to the work of the department since the preceding statement:
- Contents of bulletin: (a) The name of every bank that has filed in the banking department an application for authorization to commence business, its location and the date of filing such application.
- Applications filed, etc.
- New banks authorized. (b) The name and location of every bank authorized by the superintendent of banks to commence business, its capital, surplus, and the date of authorization.

(c) The name of every bank to which a certificate of authorization has been refused by the superintendent of banks, and the date of notice of refusal. Certificates refused.

(d) The name and residence of every person appointed by the superintendent of banks as a deputy, examiner or employee in the banking department, the title of the office to which appointed, the compensation paid, and the date of appointment. New employees, etc.

(e) The date on which a call for a report by banks was issued by the superintendent of banks, and the day designated as the day with reference to which such report should be made. Data concerning called reports.

(f) The name and location of every bank whose creditors or depositors have been paid in full by the superintendent of banks and a meeting of whose stockholders shall have been called, together with date of notice of meeting and date of meeting. Concerning banks whose creditors are paid and whose stockholders have called meeting, etc.

(g) The name and location of every bank subject to the banking law whose affairs and business shall have been finally liquidated, or in course of liquidation. Banks liquidated or liquidating.

(h) The name and location of every bank which has applied for approval of a change of name, and the name proposed. Proposed changes in name.

2. Every such bulletin, after having been posted as aforesaid for one week, shall be placed on a file for such statements, to be kept in the office of the superintendent of banks. All such statements shall be public documents, and at all reasonable times shall be open to public inspection during usual banking hours. Bulletins after being posted to be kept in office.

Section 142. None of the records of the state banking department shall be deemed to be public documents nor shall any of such records be open to the inspection of the public. Every official report made by the superintendent. Records of State Banking Dept. not deemed public documents, or open to public inspection.

Supt.'s reports, etc.,
to be prima facie
evidence in court,
etc.

ent of banks and every report duly verified of an examination made, shall be prima facie evidence of the facts therein stated, for all purposes in any action or proceedings wherein the superintendent of banks is a party.

[Publishers' Note, re Section 142, amended 1919:

This amendment, providing that none of the records of the State Banking Department shall be deemed to be public documents, or be open to the inspection of the public, affords a protection that has become very necessary, because of the endeavors of ill-advised or evilly-disposed persons to obtain information from the State Banking Department as to the condition of banks. The relationship between the Department and the banks is essentially a confidential one, and all the records should be confidential records. The amendment, of course, in no way restricts or attempts to limit the right of the courts to exercise such control over the banks in evidentiary matters as they now possess.]

(Section 143. Repealed 1913.)

Penalties and forfeitures imposed by Act—how recovered.

Section 144. Whenever by the terms of this act a penalty or forfeiture is imposed, the same shall be recovered in an action brought at the request of the superintendent of banks by the attorney general, in the name of the people of the state, and the sum recovered shall be paid into the state banking fund and used in payment of claims against the said fund. Any fine or pecuniary penalty, which may be incurred by any bank on account of the violation of any provision of this act, may be compromised and a less amount than that prescribed by this act accepted by the superintendent of banks at any time prior to the institution of action to recover the same.

When fine or penalty may be compromised with Supt.

Powers, duties, etc., of corporations doing business under laws of this State, abridged, enlarged, etc., to conform to Act.

Section 145. The powers, privileges, duties and restrictions conferred and imposed upon any corporation or individual existing and doing business under the laws of this state are hereby abridged, enlarged or modified as each particular case may require to conform to the provisions of this act, notwithstanding anything to the contrary in their respective articles of incorporation or charters. All the provisions of this act shall apply with equal force and effect to all corporations which are now doing or which may hereafter do a banking business in this state, except where express exception or exemption may be made herein, and to such other persons, associa-

Act applies equally to all corporations now or hereafter doing banking business in this State unless excepted herein, and to other persons, firms, etc., violating Act and subject to its penalties.

tions, copartnerships or corporations who shall, by violating any of its provisions, become subject to the penalties provided herein. **The legality of investments heretofore made, or title to property heretofore acquired or conveyed through transactions heretofore had by any bank pursuant to any provision of law in force when such investments were made or transactions had, shall not be affected by the provisions of this act, except that any such investments made prior to July 1, 1909, when not complying with the provisions hereof, shall be changed to conform hereto; but such change shall be made gradually and in such manner as to prevent loss or embarrassment in the business of such bank, or unnecessary loss or injury to the borrowers on such security; provided, that the legality of any investments heretofore lawfully made, pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section.**

Legality of prior bank investments or title not affected by Act; but non-complying investments made prior to July 1, 1909, to be gradually changed and written off to conform to Act, etc.

Section 146. All acts, or parts of acts, in conflict with this act are hereby repealed.

Section 147. This act shall take effect July first, 1909.

All conflicting acts, etc., repealed.

Statutes of 1909:

Chapter 76, Approved March 1. In effect July 1, 1909.

Amended by Statutes of 1911:

Chapter 11, Approved Feb. 6. In effect Feb. 6, 1911.
Chapter 488, Approved Apr. 21. In effect June 20, 1911.
Chapter 494, Approved Apr. 21. In effect June 20, 1911.
Chapter 495, Approved Apr. 21. In effect June 20, 1911.

Amended by Statutes of 1911 (Special Session):

Chapter 2, Approved Dec. 18. In effect Feb. 16, 1912.
Chapter 24, Approved Dec. 24. In effect Feb. 22, 1912.

Amended by Statutes of 1913:

Chapter 104, Approved May 6. In effect Aug. 10, 1913.
Chapter 192, Approved May 31. In effect Aug. 10, 1913.

Amended by Statutes of 1915:

Chapter 140, Approved Apr. 28. In effect Aug. 7, 1915.
Chapter 608, Approved June 3. In effect Aug. 7, 1915.
Chapter 611, Approved June 3. In effect Aug. 7, 1915.
Chapter 612, Approved June 3. In effect Aug. 7, 1915.

Amended by Statutes of 1917:

Chapter 500, Approved May 17. In effect July 27, 1917.
Chapter 501, Approved May 17. In effect July 27, 1917.
Chapter 504, Approved May 17. In effect July 27, 1917.

Amended by Statutes of 1919:

Chapter 140, Approved May 3. In effect July 22, 1919.
Chapter 337, Approved May 15. In effect July 22, 1919.

INDEX TO APPENDIX

Extracts from Section 290a of the Civil Code.

Extracts from Section 290a of the Civil Code, relating to—

- (a) Affidavit mentioned in Sec. 8 of Bank Act;
- (b) Approval of Superintendent of Banks to certificate of incorporation of banking company, referred to in Sec. 127 of the Bank Act.

Section 1273 of the Code of Civil Procedure.

Section 1273 of the Code of Civil Procedure, referred to in Sec. 15 of the Bank Act—relating to procedure by which unclaimed deposits escheat to the State.

Section 1454 of the Code of Civil Procedure

Section 1454 of the Code of Civil Procedure, granting to certain surviving heirs of a deceased depositor the privilege of withdrawing a sum not greater than \$1,000 if that sum is aggregate of all decedent's deposits—said section being referred to in the note to Sec. 16 repealed 1919.

Section 1278 of the Code of Civil Procedure.

Section 1278 of the Code of Civil Procedure, relating to change of name of a banking corporation,—referred to in Sec. 127 of the Bank Act.

Portions of the "Public Utilities Act."

Extracts from Section 2 of Public Utilities Act of California, as amended 1919, containing definitions referred to in Section 61 of the Bank Act (under paragraphs (f) (3) IV, (g) and (k) of subdivision 3 of said Section 61).

Extracts from Chapter VIII of Title II of Part IV of Division First of the Civil Code.

Extracts from Chapter VIII of Title II of Part IV of Division First of the Civil Code, referred to in Sections 61, 96 and 99 of the Bank Act, relating to mortgage insurance and mortgage-participation certificates.

Penal Code Sections 561, 561a, 561b, 561c, 561d and 563a and 563b.

Penal Code Sections 561, 561a, 561b, 561c, 561d and 563a and 563b, relating to frauds in the management of banks.

General Laws, Chapter 496, Statutes 1917.

General Laws, Chapter 496, Statutes 1917, relating to the liquidation of banks,—referred to in note to Sec. 136 of Bank Act.

"Bulletin No. 1," referred to in note to Section 5, stating regulations governing banks desiring to establish insurance agency, as provided in Section 5 of the Bank Act.

Letter from State Banking Department referred to in note to Section 48a stating requirements imposed on Banks desiring to assume trust-company functions under Section 48a of Bank Act.

APPENDIX

Extracts from Section 290a of the Civil Code.

Extracts from Section 290a of the Civil Code, relating to—

- (a) Affidavit mentioned in Sec. 8 of Bank Act;
- (b) Approval of Superintendent of Banks to certificate of incorporation of banking company, referred to in Sec. 127 of the Bank Act.

Before corporation authorized to conduct business as executor, trustee, etc., or engage in business of banking, etc., may file with Secy. of State copy of articles of incorporation, etc., certificate of approval of Supt. to be attached.

This section not applicable to corporation authorized to engage in business of holding escrows, or acting as trustee under deeds of trust for repayment of money, etc.

Section 290a. Before any corporation, authorized in its articles of incorporation to conduct the business of acting as executor, administrator, guardian of estates, assignee, receiver, depository, or trustee under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, or to engage in the business of banking, or of receiving the money of others on deposit, may file with the secretary of state a certified copy of its articles of incorporation, or of a certificate of extension of its term of existence, or of a certificate increasing or decreasing the number of its directors, or of a certificate increasing or decreasing its capital stock, or of its amended articles of incorporation, or of its articles of incorporation and consolidation, there must be attached thereto the certificate of approval of the superintendent of banks; provided, that this section shall not apply to any corporation authorized to engage in the business of receiving and holding in escrow money or its equivalent, pending investment in real estate or securities for or on account of its principal, or to act as trustee under deeds of trust given solely for the purpose of securing obligations for the repayment of money other than corporation bonds, nor shall such corporations be subject to the supervision of the superintendent of banks.

Section 1273 of the Code of Civil Procedure.

Section 1273 of the Code of Civil Procedure, referred to in Sec. 15 of the Bank Act—relating to procedure by which unclaimed deposits escheat to the State.

1273. All amounts of money heretofore or hereafter deposited with any bank to the credit of depositors who have not made a deposit on said account or withdrawn any part thereof or the interest and which shall have remained unclaimed for more than twenty years after the date of such deposit, or withdrawal of any part of principal or interest, and where neither the depositor or any claimant has filed any notice with such bank showing his or her present residence, shall, with the increase and proceeds thereof, escheat to the state. Whenever the attorney general shall be informed of such deposits, he shall commence an action or actions in the name of the State of California, in the superior court for the county of Sacramento, in which shall be joined as parties the bank or banks in which the moneys are deposited and the names of all such depositors. All or any number of depositors or banks may be included in one action. Service of process in such action or actions shall be made by delivery of a copy of the complaint and summons to the president, cashier or managing officer of each defendant bank, and by publication of a copy of such summons in a newspaper of general circulation published in said county for a period of four weeks. Upon the trial the court must hear all parties who have appeared therein and if it be determined that the moneys deposited in any defendant bank or banks are unclaimed as hereinabove stated, then the court must render judgment in favor of the state declaring that said moneys have escheated to the state and commanding said bank or banks to forthwith deposit all such moneys with the state treasurer, to be received, invested, accounted for and paid out in the same manner and by the same officers as is provided in the case of other escheated property.

Bank deposits not drawn on or claimed for more than 20 years, where residence of depositor or claimant not filed with bank, escheat to State.

Attorney General to commence action against depository bank and depositors to obtain judgment of escheat to State.

Section 1454 of the Code of Civil Procedure

Section 1454 of the Code of Civil Procedure, granting to certain surviving heirs of a deceased depositor the privilege of withdrawing a sum not greater than \$1,000 if that sum is aggregate of all decedent's deposits—said section being referred to in the note to Sec. 16 repealed 1919.

Certain surviving heirs of deceased depositor may, without administration, collect of bank, deposits of decedent not exceeding \$1000.

The surviving husband or wife or the guardian of the estate of any insane or incompetent husband or wife, of any deceased person, or if no husband or wife is living, then the children, or the guardian of the estates of any minor or insane or incompetent children of said deceased, or, if no children are living, then the father or mother or guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the father nor mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death; provided, such deposits shall not exceed the sum of one thousand dollars.

Bank upon receiving affidavit stating certain specified facts, may pay such deposits.

Any bank, upon receiving an affidavit stating that said depositor is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent surviving husband or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is the child, or that affiants are the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife nor children, and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband, wife, children, father nor mother, and that affiants are the brothers and sisters, or the guardians of the estates of the minor, insane or incompetent brothers

and sisters, as the case may be, of said decedent, and that the whole amount that said decedent left on deposit in any and all banks of deposit in this state, does not exceed the sum of one thousand dollars, may pay to said affiant or affiants any deposit of said decedent, if the same does not exceed the sum of one thousand dollars, and the receipt of such affiant or affiants is sufficient acquittance therefor.

Whole amount left
by decedent in any
and all banks of
State not to exceed
\$1000.

Sec. 1278, Code of Civil Procedure

Section 1278 of the Code of Civil Procedure, relating to change of name of a banking corporation, referred to in Sec. 127 of the Bank Act.

Said Section 1278 appears in Title IX of Part III of the Code of Civil Procedure. This Title embraces Sections 1275-1279 of said Code, and covers the subject, "Of Change of Names."

Said Title IX, after providing that applications for change of name must be heard and determined in the Superior Court, and prescribing various steps to be taken in the institution and prosecution of an application of this kind, goes on in Section 1278 to provide as follows:

Proceedings at hearing in court on application for change of name of corporation.

Section 1278. Such application must be heard at such time as the court may appoint, and objections may be filed by any person who can, in such objections, show to the court good reason against such change of name. On the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper; provided, that if the applicant for a change of name be a corporation, such applicant shall file in court at the time of hearing the application, the certificate of the secretary of state that the name desired to be used by the applicant, is not the corporate name of any corporation existing at said time, and that said name does not so closely resemble the name of any such existing corporation as will tend to deceive; provided, further, that if the applicant for a change of name be a banking corporation, such applicant shall file in court at the time of hearing the application, the certificate of the superintendent of banks that the name desired to be used by the applicant does not resemble so closely as to be likely to cause confusion, the name of any other bank previously formed under the laws of this state.

Banking corporation must file in court certificate of Supt. to effect that name desired to be used not closely similar to name of existing bank.

PUBLIC UTILITIES ACT.

Extracts from Section 2 of Public Utilities Act of California, as amended 1919, containing definitions referred to in Section 61 of the Bank Act (under paragraphs (f) (3) IV, (g) and (k) of subdivision 3 of said Section 61).

(g) The term "street railroad," when used in this act, includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city and county or city or town, together with all real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property; but the term "street railroad," when used in this act, shall not include a railway constituting or used as a part of a commercial or interurban railway.

Definitions, in Public Utilities Act, of the terms: "Street Railroad."

(h) The term "street railroad corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any street railroad for compensation within this State.

"Street railroad corporation."

(i) The term "railroad," when used in this act, includes every commercial, interurban and other railway other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property.

"Railroad."

(j) The term "railroad corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any

"Railroad corporation."

court whatsoever, owning, controlling, operating or managing any railroad for compensation within this State.

"Express
corporation."

(k) The term "express corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or stage or auto stage line within this State.

"Common carrier."

(l) The term "common carrier," when used in this act, includes every railroad corporation; street railroad corporation; express corporation; dispatch, sleeping car, dining car, drawing room car, freight, freight line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this State; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel engaged in the transportation of persons or property for compensation between points upon the inland waters of this State or regularly engaged in the transportation of persons or property for compensation upon the high seas, on regular routes between points within this State. The term "inland waters" as used in this subsection includes all navigable waters within the State of California other than the high seas.

"Pipe line."

(m) The term "pipe line," when used in this act, includes all real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the transmission, storage, distribution or delivery of crude oil or other fluid substances except water through pipe lines.

"Pipe line corpora-
tion,"

(n) The term "pipe line corporation," when used in this act, includes every corporation or person, their les-

sees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any pipe line for compensation within this State.

(o) The term "gas plant," when used in this act, "Gas plant," includes all real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas (natural or manufactured) for light, heat or power.

(p) The term "gas corporation," when used in this "Gas corporation." act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any gas plant for compensation within this State, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

(q) The term "electric plant," when used in this act, "Electric plant" includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of electricity for light, heat or power, and all conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

(r) The term "electrical corporation," when used in "Electrical corporation." this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electric plant for compensation within this State, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

"Telephone line." (s) The term "telephone line," when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.

"Telephone corporation." (t) The term "telephone corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telephone line for compensation within this State.

"Telegraph line." (u) The term "telegraph line," when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telegraph, whether such communication is had with or without the use of transmission wires.

"Telegraph corporation." (v) The term "telegraph corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telegraph line for compensation within this State.

"Water system." (w) The term "water system," when used in this act, includes all reservoirs, tunnels, shafts, dams, dikes, head-gates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use.

(x) The term "water corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this State. "Water corporation."

(y) The term "vessel," when used in this act, includes every species of water craft, by whatsoever power operated, which is owned, controlled, operated or managed for public use in the transportation of persons or property, except rowboats, sailing boats and barges under twenty tons dead weight carrying capacity, and vessels propelled by steam, gas, fluid naphtha, electricity, or other motive power under the burden of five tons net register. "Vessel."

(z) The term "wharfinger," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees, appointed by any court whatsoever, owning, controlling, operating or managing any dock, wharf or structure used by vessels in connection with or to facilitate the receipt or discharge of freight or passengers for compensation within this State. "Wharfinger."

(aa) The term "warehouseman," when used in this act, includes every corporation or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any building or structure in which property is regularly stored for compensation within this State, in connection with or to facilitate the transportation of property by a common carrier or vessel, or the loading or unloading of the same, other than a dock, wharf or structure, owned, operated, controlled or managed by a wharfinger. "Warehouseman."

* * * * *

(dd) The term "public utility," when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone cor-

"Public utility"—
Continued. corporation, telegraph corporation, water corporation, wharfinger, warehouseman and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof. The term "public or any portion thereof," as herein used means the public generally, or any limited portion of the public including a person, private corporation, municipality or other political subdivision of the State, for which the service is performed or to which the commodity is delivered, and whenever any common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman or heat corporation performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman or heat corporation is hereby declared to be a public utility subject to the jurisdiction, control and regulation of the commission and the provisions of this act. Furthermore, when any person or corporation performs any service or delivers any commodity to any person or persons, private corporation or corporations, municipality or other political subdivision of the State, which in turn either directly or indirectly, mediately or immediately, perform such service or deliver such commodity to or for the public or some portion thereof, such person or persons, private corporation or corporations and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act.

MORTGAGE INSURANCE.

Extracts from Chapter VIII of Title II of Part IV of Division First of the Civil Code of California as revised and amended; Approved June 12, 1915.

Referred to in paragraph (k) of Subdivision 3 of Section 61, also in Subdivision (d) of Sec. 96, and in Sec. 99 of the Bank Act.

CHAPTER VIII.

MORTGAGE INSURANCE.

Sec. 453aa. Mortgage insurance companies subject to insurance laws and the authority of insurance commissioner.

453bb. Mortgage insurance company defined. The term "security" as used in this chapter defined. Policy of mortgage insurance defined. Mortgage participation certificate defined. Entire mortgage guaranty defined.

453cc. Requisite capital stock of mortgage insurance company; certificate of authority required. Kind and amount of securities that may be guaranteed. Policies of mortgage insurance do not constitute "debts" or "indebtedness" of issuing company. Can not invest in, hold or own capital stock of another corporation, except as provided herein.

453dd. Must accumulate a surplus. Restriction on making of dividends.

453ee. Investments permitted.

453ff. Mortgage participation certificates and guaranteed securities made legal investments for trust funds, insurance companies and others.

453gg. Quarterly reports to insurance commissioner.

453aa. Every mortgage insurance company shall be subject to and shall comply with all the requirements of the laws of this state made applicable to insurance companies generally and the rules and regulations of the insurance department of this state, excepting in so far as said laws, rules or regulations may be inconsistent with the other provisions in this chapter contained; and the insurance commissioner shall have the same power and authority over such company that he may exercise in

Mortgage insurance companies subject to insurance laws and authority of insurance commissioner.

relation to other insurance companies, including the right to examine and inspect the financial condition and affairs of such company relating to the business of such company, and to compel compliance with the provisions of law governing any such company.

Definitions: "Mort-
gage insurance
company."

453bb. The term "mortgage insurance company" shall include every association, corporation, firm or person who shall engage as a business in making and issuing policies of mortgage insurance.

"Security."

The term "security" wherever used in this chapter, without a different meaning being specified or made apparent, shall be construed to refer to and include within its meaning a note or notes, or bond or bonds, together with the mortgage or deed of trust securing the same which evidence a debt secured by a first lien on a marketable title in fee to real estate, or to real estate with improvements thereon.

"Policy of mort-
gage insurance."

Any contract made and issued by a mortgage insurance company which purports to guarantee or insure against loss on, or to guarantee the payment of, within a specified time, the whole, or any part, of the principal, interest or other sums agreed to be paid under the terms of any security, or other sums secured under the terms of any security, shall be deemed, and is hereby designated, a "policy of mortgage insurance."

"Mortgage participa-
tion certificate."

A policy of mortgage insurance which evidences the ownership by the insured of an undivided or other partial share or interest, or the right to participate to a specified extent, in a security, or in a group consisting of several securities, and purports to guarantee the payment of such securities, or the payment of such undivided or other partial share or interest therein, or the amount of such participation, may be referred to as, and is hereby designated, a "mortgage participation certificate."

"Entire mortgage
guaranty."

A policy of mortgage insurance, other than a mort-

gage participation certificate, which covers and refers to the entire indebtedness evidenced by a security, may be referred to as, and is hereby designated, an "entire mortgage guaranty."

* * * * *

453ff. Mortgage participation certificates, also securities guaranteed by policies of mortgage insurance issued in conformity with the provisions of this chapter shall be legal investments for all trust funds held by any executor, administrator, guardian, trustee or other person holding trust funds, also for the funds of insurance companies, banks, banking institutions and trust companies, and shall be accepted by the State of California, its officers and officials, as securities comprising any part of any fund or deposit required by law to be made with the State of California, or any officer or official thereof, by any trust company or insurance company doing business in the State of California, and all premiums required to be paid according to the terms of any such mortgage participation certificate, or other policy of mortgage insurance, may be charged to or paid out of the income from the note or notes or bond or bonds covered thereby; provided, that the foregoing provisions of this section, in so far as they refer to mortgage participation certificates, shall apply only to such mortgage participation certificates as evidence the ownership of shares or interests in, or participation in, securities which shall have been assigned to a trust company organized and doing business under the laws of and within this state and shall be held by such trust company for the common and equal benefit of the holders of all mortgage participation certificates issued or to be issued evidencing the ownership of shares or interests in, or participation in, any particular security or group of securities so assigned and such trust, and the administration thereof, shall at all times be and hereby is expressly made subject to the inspection, supervision and

Mortgage participation certificates, and certificates guaranteed by policies of mortgage insurance, legal investment for trust funds and funds of banks, trust companies, etc.

Foregoing provisions of Sec. apply only to such certificates as comply with specified requirements.

Each certificate must have there-with certificates and appraisement, as specified.

Copy of appraisement, certificate, etc., to be transmitted to Supt.

First-lien requirements, as to certificates covered by this chapter, if used as part of fund or deposit with trust-company, with State Treasurer.

control of the superintendent of banks as fully and completely as if the same constituted a court trust under the provisions of the Bank Act; provided also, that each such mortgage participation certificate must bear the certificate of such trust company to the effect that the aggregate amount of mortgage participation certificates then outstanding, including both the one being certified and all others based on the same security or group of securities, does not exceed the amount of the unpaid principal of the debt or debts evidenced by such particular security or group of securities; provided also, that each security so assigned shall be accompanied by a copy of the appraisement and of the certificate of the directors filed or to be filed with the insurance commissioner as required by the provisions of this chapter; provided also, that a copy of each such appraisement and accompanying certificate of the directors shall be promptly, upon the assignment of each such security, transmitted to the superintendent of banks, and that each such copy of appraisement so transmitted shall bear an endorsement or certificate executed by the trust company to which each such security is so assigned reciting and setting forth the amount of the unpaid principal named in the security which covers the property described in such appraisement; provided also, that if any such mortgage participation certificates, or securities guaranteed by policies of mortgage insurance issued in conformity with the provisions of this chapter, are used as securities comprising any part of any fund or deposit required by law to be made with the state treasurer by a trust company, the securities so guaranteed or the ownership of, or participation in, which is evidenced by such participation certificates must constitute a first lien on improved and productive real estate in the State of California, such improved real estate being worth at least double the amount of such lien; and also that the real estate and improvements which are covered by the lien of any security so guaranteed or the own-

ership of, or participation in, which is evidenced by mortgage participation certificates which are so used shall be reappraised at least once every two years and in the manner in this chapter provided for appraisements, and a copy of each such reappraisalment shall be filed with the trust company to which such security shall have been assigned and the original of each such reappraisalment bearing the endorsement or certificate of such trust company as to the amount of the unpaid principal named in such security shall be filed with the superintendent of banks; provided, further, that the legality or validity of entire mortgage guaranties and mortgage participation certificates heretofore issued which fully conform to and comply with the law in force at date of issuance shall not be affected or impaired by the provisions of this chapter and such entire mortgage guaranties and mortgage participation certificates shall continue to be legal investments and recognized for all purposes to the extent and in the manner provided by the law in force at date of such issuance.

Legality of prior certificates which were valid when issued, not impaired by this chapter.

A mortgage insurance company which issues mortgage participation certificates in accordance with the provisions of this section may at any time and from time to time substitute for any security or securities comprising or constituting a part or parts of a group of securities, the ownership of, or participation in, which is evidenced in whole or in part by any such participation certificates, other securities similarly guaranteed by it and withdraw from the trust company the security or securities for which such substitution shall be made; provided, however, that at all times the amount of the unpaid principal of the debts evidenced by the particular group of securities held by such trust company and affected by any such substitution shall not be less than the aggregate amount of the participation certificates theretofore issued then outstanding and evidencing the ownership of undivided or other partial shares or interests, or participation, in

Substitution in securities on which participation certificates based—conditions governing.

Substitution in
securities on which
participation certifi-
cates based—condi-
tions governing—
Continued.

such group of securities; and provided further, that the right of substitution hereinbefore provided and the exercise thereof shall not alter or affect the status of such participation certificates as legal investments for trust funds, insurance companies, banks, banking institutions and trust companies as hereinbefore provided, or as securities acceptable by the State of California, its officers and officials, as comprising or constituting any fund or deposit, or any part thereof, required by law to be made with the State of California, or any officer or official thereof, by any trust company or insurance company doing business in the State of California.

* * * * *

PENAL CODE.

RELATING TO FRAUDS IN THE MANAGEMENT
OF BANKS.

Penal Code Sections 561, 561a, 561b, 561c, 561d and 563a
and 563b.

Section 561. An officer, director, agent, teller, clerk or employee of any bank, who, either

Bank officer, director, etc., over-drawing or permitting overdraft, or receiving commission in procurement, etc., of bank loan, etc., guilty of felony

1. Knowingly overdraws his account with such bank and thereby obtains the money, notes or funds of any such bank; or

2. Asks for, receives, or consents or agrees to receive, any commission, emolument, gratuity or reward, or any promise of any commission, emolument, gratuity or reward, or any money, property or thing of value or of personal advantage for procuring or endeavoring to procure for any person, firm or corporation, any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange by any such bank, or for permitting any person, firm or corporation to withdraw any account with such bank, is guilty of a felony.

Section 561a. Any officer, director, trustee, employee or agent of any bank in this state, who abstracts or wilfully misapplies any of the money, funds or property of such bank, or wilfully misapplies its credit, is guilty of a felony. Nothing in this section shall be deemed or construed to repeal, amend or impair any existing provision of law prescribing a punishment for any such offense.

Misappropriation, etc., by bank director, employee, etc.—felony.

Section 561b. Every director of a bank in this state who:

1. In case of the fraudulent insolvency of such bank, shall have participated in such fraud; or

Fraudulent insolvency of bank—participation therein, by director—misdemeanor.

2. Wilfully does any act as such director which is expressly forbidden by law or wilfully omits to perform any duty imposed upon him as such director by law, is guilty of a misdemeanor.

The insolvency of a bank is deemed fraudulent unless its affairs appear upon investigation to have been administered clearly, legally and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe.

Guaranty or endorsement, for bank, by officer or agent, misdemeanor.

Section 561c. An officer or agent of any bank in this state, who makes or delivers any guaranty or endorsement on behalf of such bank, whereby it may become liable upon any of its discounted notes, bills or obligations, in a sum beyond the amount of loans and discounts which such bank may legally make, is guilty of a misdemeanor.

Director concurring in vote for illegal bank loan or discount; or

Section 561d. A director of a bank, organized under the laws of this state, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended to make a loan or discount to any director of such corporation, or upon paper upon which any such director is liable or responsible to an amount exceeding the amount allowed by the statutes; or

Director, officer, employee making or attempting illegal deposit of bank funds; or

Any director, trustee, officer or employee of any such bank who makes or maintains, or attempts to make or maintain, a deposit of such bank's funds with any other corporation on condition, or with the understanding, express or implied, that the corporation receiving such deposit make a loan or advance, directly or indirectly, to any director, trustee, officer or employee of the corporation so making or maintaining or attempting to make or maintain such deposit; or

Officer or employee concealing discounts of bank loans, or purchase or sale of bank securities between meetings, or failing to report same when so required by law—guilty of misdemeanor.

Any officer or employee of any such bank who intentionally conceals from the directors or trustees of such bank any discounts or loans made by it between the regular meetings of its board of directors or trustees, or the purchase of any securities or the sale of its securities during the same period, or knowingly fails to report to the board of directors or trustees when required to do so

by law, all discounts or loans made by it and all securities purchased or sold by it between the regular meetings of its board of directors or trustees, is guilty of a misdemeanor.

Nothing in this section shall render any loan made by the directors of any bank, in violation thereof, invalid.

Section 563a. Any officer, director, trustee, employee or agent of any bank organized under the laws of this state, who makes a false or untrue entry in any book or any report, tag or statement, of the business, affairs or condition, in whole or in part, of such corporation, with intent to deceive any officer, director or trustee thereof, or any agent or examiner, private or official, employed or lawfully appointed to examine into its condition or into any of its affairs, or any public officer, office or board to which such bank is required by law to report, or which has authority by law to examine into its affairs, or into any of its affairs, or who, with like intent, wilfully omits to make a new entry of any matter particularly pertaining to the business, property, affairs, assets or accounts of such bank in any book, report, statement, or tag of such bank made, written or kept, or required to be made, written or kept by him or under his direction, is guilty of a felony.

Officer, director, employee, etc., making false entry or omitting to make required entry, guilty of felony.

Section 563b. Any person who wilfully and knowingly makes, circulates or transmits to another or others any statement or rumor, written, printed or by word of mouth, which is untrue in facts and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank, doing business in this state, or who knowingly counsels, aids, procures or induces another to start, transmit or circulate any such statement or rumor, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

Making or circulating untrue, derogatory statement as to financial condition of bank, misdemeanor.

GENERAL LAWS.

Chapter 496, Statutes 1917.

Liquidation of banks. General Laws, Chapter 496, Statutes 1917, relating to the liquidation of banks,—referred to in note to Sec. 136 of Bank Act.

An act relating to the liquidation of banks by the superintendent of banks; empowering him to levy assessments against the members and stockholders of any bank in process of liquidation by him to an amount which he may determine to be necessary to promptly pay the creditors of such bank in full; to enforce such assessments by suit and empowering the superior court to determine the equities of the members and stockholders of any such bank to any surplus which may remain after the payment of the creditors of such bank in full and to award and distribute the same accordingly.

(Approved May 17, 1917. In effect July 27, 1917.)

The people of the State of California do enact as follows:

Supt., taking possession of bank business in liquidation, to determine as to assessment of stockholders, etc., to pay claims.

Section 1. Whenever the superintendent of banks shall hereafter take possession of the business and property of any bank doing business in this state for the purpose of liquidating its affairs, as provided by law, he may at any time during the process of such liquidation determine whether it shall be necessary to assess the members or stockholders of such bank in order to promptly pay the claims of the creditors of such bank in full and he shall make such assessments as he may determine to be necessary for that purpose.

Determination to make assessment evidenced by filing court petition.

Section 2. Such determination shall be evidenced by a complaint or petition against all of the members and stockholders of such bank filed by the superintendent of banks in the superior court of the county where the principal place of business of such bank is or was located at the time of the taking of such possession.

First assessment proving inadequate, Supt. may make further assessments.

Section 3. If such assessment, first made, shall prove inadequate to pay all of the creditors of such bank in full the superintendent of banks may make further assess-

ment or assessments by filing supplemental complaints or petitions in the same proceeding.

Section 4. In any such proceeding such assessment shall be enforced and collected and the proceeds thereof shall be added to the funds of such bank and applied by the superintendent of banks for the payment of just claims against the same.

Collection and application of proceeds of assessments.

Section 5. If after the payment of all just claims against such bank and the cost of liquidation any surplus shall remain said court shall determine the equities of the respective members and stockholders of such bank thereto and direct the payment thereof by the superintendent of banks accordingly.

Disposition of surplus after payment of claims, etc.

Section 6. The superintendent of banks shall have power to maintain an action in any other state or country to enforce and collect such assessments against any of such members or stockholders and the proceeds thereof shall become a part of the fund and be subject to the same disposition as if collected in the proceedings provided for in this act.

Supt. has power to maintain action to enforce assessment in other state or country.

Section 7. This act shall not affect any action or proceeding instituted by the superintendent of banks prior to its enactment.

Act not to affect proceeding instituted prior to enactment.

Section 8. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional or its operation or application is or may be limited or controlled by any constitutional provision.

BULLETIN No. 1.

"Bulletin No. 1," referred to in note to Section 5, stating regulations governing banks desiring to establish insurance agency, as provided in Section 5 of the Bank Act.

Regulations govern-
ing banks desiring
to establish insur-
ance agency under
Sec. 5 of Bank Act—

Gentlemen:

I am pleased to advise you that an amendment to section five of the bank act which I offered for enactment has been passed by the legislature, signed by Governor Stephens, and is operative as of this date.

Under authority of this change in the law, banks located and doing business in any place, the population of which does not exceed five thousand persons, may act as agents for a fire, life or other insurance company.

My purpose in suggesting this new function of state banks in small communities was to permit the indulgence of an activity which will be of public convenience and advantage and which will place those banks that constitute the smaller units in the state system upon a competitive equality with similar institutions controlled by national regulation.

In this connection, I recall federal legislation which gives to national associations the privilege now granted to state banks, and I am gratified to announce the accomplishment in this regard of a policy of establishing state institutions upon a parity with those of national organization in securing profitable and safe exercise of their desire to meet the demands of their contributory communities.

In what follows, please observe and strictly adhere to the various locality and corporate requirements necessary to engage in the agencies designated.

A bank operating under the authority of state laws and desiring to avail itself of the provisions of the "bank act" as amended and operative as of date July 22, 1919, relative to acting as agent for an insurance company, must be located in a place the population of which does

not exceed five thousand, as shown by the last preceding decennial census or any subsequent official census.

Regulations governing banks desiring to establish insurance agency under Sec. 5 of Bank Act —Continued.

The insurance company for which the bank acts as agent must have been authorized by the Insurance Commissioner of California to do business in this state.

The activities of the bank as such agent must be restricted to the soliciting and selling of insurance and the collection of premiums on policies issued by the insurance company.

The bank may receive for services so rendered such lawful fees or commissions as may be agreed upon between the bank and the insurance company for which it may act as agent.

The bank is prohibited from assuming or guaranteeing the payment of any premium on insurance policies issued, through its agency, by its principal.

The bank is prohibited from guaranteeing the truth of any statement made by an assured in filing his application for insurance.

The powers conferred are to be exercised under such regulations as may be prescribed by the Superintendent of Banks.

In pursuance of the foregoing amendment the following regulations are hereby prescribed for banks which may undertake to act as agents for insurance companies:

1. Each contract of agency must be formally accepted by the board of directors of the agent bank by a resolution spread upon the minutes in the following form:

"Be it resolved that the contract of agency entered into....., 19....., between the
.....
insurance company and the.....
bank of, by.....,
president (or vice president) and.....,
cashier, or secretary, a copy of which is on file in this
bank, is hereby ratified and approved."

Regulations governing banks desiring to establish insurance agency under Sec. 5 of Bank Act.
Continued.

2. A certified copy of such resolution, attested by the president or vice president and by the cashier, or secretary, and by a majority of the directors of the bank, must be forwarded to this office.

3. There should be on file in the bank, available for inspection by examiners of this department, the following documents:

(a) An authoritative statement showing the population of the town according to the last preceding decennial census or any subsequent official census.

(b) A proper certificate from the Insurance Commissioner of California showing as to each insurance company for which the bank is acting as agent that such company has received authority from the said Insurance Commissioner to transact business in this state.

(c) A proper certificate or other writing of each insurance company for which the bank acts authorizing the bank to act as its agent, setting forth that the bank does not guarantee the payment of any premium on insurance policies issued through its agency by its principal, and stating that the bank is not to be held responsible for the truth of any statement made by an assured in filing his application for insurance.

(d) Copies of all reports made by the agent bank to each insurance company which it represents.

4. The bank will be required to keep a record as to each company for which it acts as agent showing:

(a) For fire insurance: The amount of each policy, the rate and premium, date of commencement, term, and date of expiration, as well as a description of property insured, with name of assured, and to whom loss is payable.

(b) As to life insurance: Amount and date of policy, with premium, and a statement as to under what form the insurance is written, giving also name of assured and beneficiary.

(c) As to any and all other forms of insurance: The fullest possible particulars as to amounts, dates, rates, premiums, and what is insured by the policy, and of collection of all premiums collected for account of the company, refunds made, the proportion of premium credited to the profits of the bank under its agreement with the company, the proportion due the company, the amounts and dates of all remittances made to the insurance company on account of premiums collected, and the balance, if any, due from the bank to the insurance company.

Regulations governing banks desiring to establish insurance agency under Sec. 5 of Bank Act
—Continued.

5. The bank will be required to carry on its general ledger an account which will, at all times, show the amount due to insurance companies for which it is acting as agent, on account of premiums collected but not remitted, and this liability must be shown in reports of condition and in the published statements of the bank under the heading "Other liabilities—on account of insurance premiums collected and not remitted," unless specifically provided for in the report.

6. The bank should also keep such records as may be required by each insurance company in the manner and under the forms prescribed by the various companies; all of which should be available for inspection by the examiner on request.

7. The agent bank must not assume any responsibility or liability for either the adjustment, settlement, or payment of losses under any policy issued by or through its agency.

8. The records of all profits derived from the insurance agency should be carried in a separate account on the books of the bank, and the records should be so kept as to enable the examiner readily to trace to the source all items of profit derived in this connection.

Yours very truly,

CHARLES F. STERN,
Superintendent of Banks.

PROCEDURE IN ASSUMING TRUST-COMPANY FUNCTIONS.

Form of letter from State Banking Department referred to in note to Section 48a stating requirements imposed on Banks desiring to assume trust-company functions under Section 48a of Bank Act.

Requirements imposed on Banks assuming trust functions under Sec. 48a, Bank Act

In connection with your desire to assume trust company functions in association with your banking business, we wish herewith to outline to you the procedure necessary for you to observe as incident to our duty of visitation and supervision of your trust company functions. As you are aware, the legislature of California adopted at its recent session enabling acts to permit this department to authorize for deposit with the State Treasurer of California such securities as are required by the national act which permits you to undertake a trust company business. These enabling statutes of California will be operative as of date July 22, 1919, and on and after that date we shall be glad to entertain from you any application for the authorization of securities which is necessary under both state and national law. If we may be of any service to you in expediting your assumption legally of trust company powers, we shall be very glad to have you command us.

Incident to any application that you may make to this department for the authorization of a deposit of securities with the State Treasurer of California, we will thank you to submit to us the following:

- (1) A duly certified copy of a resolution of your board of directors determining upon the conduct of a trust company business and authorizing the steps required by law to be taken to the accomplishment of that end. We shall require a copy of this resolution certified by the secretary of your bank and under your corporate seal.
- (2) A duly certified copy of permission of the Federal Reserve Board granting you authority to engage in a trust company business.

- (3) You must segregate and assign to the State Treasurer of the State of California securities in conformity with section 96 of the bank act in the sum of \$100,000 for the faithful performance and due execution of your private trust business, and \$100,000 for the faithful performance and due execution of your court trust business. Care should be taken that the securities chosen shall be of the character established by section 96 of the bank act. In presenting these securities, please accompany them with the following:
- Requirements imposed on Banks assuming trust functions under Sec. 48a, Bank Act—Continued.
- (a) A resolution of the board of directors segregating, depositing and assigning the designated securities to the State Treasurer of California for the purposes indicated, setting forth a description of the securities in detail and authorizing and directing the officers of the corporation to execute the necessary assignments.
- (b) An assignment of the securities as above indicated executed by the officers of the corporation.
- (c) In the case of mortgages secured by real estate, it should be borne in mind that the amount of the mortgage can not exceed 50% of the fair market value of the property and that the property must be productive and income bearing. We shall require the following documents concerning such a mortgage:
1. The mortgage showing recordation.
 2. The notes secured by such mortgage.
 3. An abstract of title or a policy of title insurance showing that the mortgage and the notes secured thereby are a first lien upon the property in question.
 4. An appraisal of the property covered by the mortgage or deed of trust made by two dis-

Requirements imposed on Banks assuming trust functions under Sec. 48a, Bank Act.
—Continued.

interested appraisers not affiliated with the bank, setting forth the fair market value of the property, indicating the value of the real estate and of the improvements separately, and indicating also that the property is productive and income bearing.

5. Policies of fire insurance covering the improvements, if any, upon the property under the lien of the mortgage or deed of trust.

- (d) If any of the securities offered for deposit with the State Treasurer of California are bonds, these bonds should be accompanied by an authoritative opinion running to their character and legality.

If all of the documents and securities are in form, we will so advise the State Treasurer of California by issuing our authorization to him to accept such securities on deposit for purposes indicated. We will then, upon the acceptance by the State Treasurer of California, inform you of your complete qualification as far as is required by the law of this state.

We desire that all of the above described documents in connection with this deposit of securities by you, except the policies of fire insurance, should they be a part of your deposit, should be submitted to this department in duplicate, one to be forwarded to the State Treasurer with the deposit, and the other to be retained in this department for our record. In bringing forward certificates of title, if such are used, the certificate should show the assignment to the State Treasurer of California. If you deposit bonds, we will thank you to send them directly to the Treasurer of California to be held by him for your credit until he receives from this department the authorization to accept them on deposit as is required by law.

For your information, we are enclosing you the following:

Requirements imposed on Banks assuming trust functions under Sec. 48a, Bank Act
—Continued.

- (1) Form of resolution to be adopted by your board of directors authorizing certain of your officers to assign certain certificates for the faithful performance and due execution of your court trust business and for the faithful performance and due execution of your private trust business.
- (2) Form of assignment of the securities which your board of directors shall authorize to be placed on deposit with the State Treasurer.

If there be any other question incidental to your purpose to install a trust department, we shall be glad to be at your command for its consideration.

Yours very truly,

CHARLES F. STERN,
Superintendent of Banks.



BANK ACT OF CALIFORNIA.

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